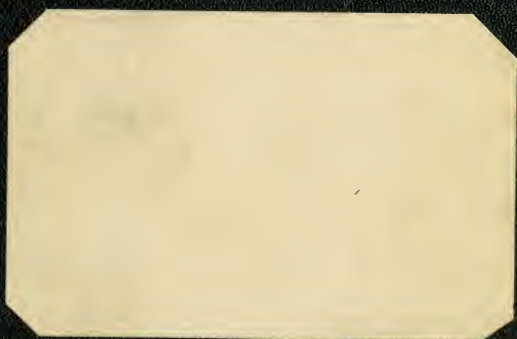


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# SPEECH

OF

## MR. WOODBURY, OF NEW HAMPSHIRE,

IN EXECUTIVE SESSION,

*On the Treaty for the Reannexation of Texas to the United States.*

DELIVERED IN THE SENATE OF THE UNITED STATES, JUNE 4, 1844.

Mr. WOODBURY said:

If I understand the substance of all the objections to the ratification of the present treaty, whether expressed in resolutions or debate, it is this:

First, that the government of the United States does not possess the constitutional right or power to purchase Texas, and admit her people into the Union. Next, that the present government of Texas alone has not the right or competency to make such a cession of her territory and sovereignty. And, finally, that it is not our duty at present to complete the cession, even were the right on both sides clear.

This seems to me to be the whole case, when stripped of details and perplexing appendages. I shall examine these positions separately, and I trust with that fairness and dispassionate spirit which belong to a question so momentous to our own country, as well as a sister republic—a question, too, on which I speak as the organ of no administration or party, but above and beyond them all, as an independent senator, of an independent State, and trying to regard her interests, and those of the whole Union, in the long vista of the future, no less than at the present moment.

Some deny the constitutional power to purchase any territory situated without our original limits; while others deny not only that, but the power, at any time, to admit such territory and inhabitants into the Union as States.

Both of these powers have been exercised in the cases of buying Louisiana and the Floridas, and afterwards of admitting the three States of Louisiana, Arkansas, and Missouri, carved out of the former territory. They have, therefore, long been regarded as settled questions, till the opposition to them in this chamber, by the senators from New Jersey, Massachusetts, and Rhode Island, [Messrs. MILLER, CHOATE, and SIMMONS,] has burst forth with such vehemence, that it may be well to advert to a few principles and authorities in their support.

I do this the more readily, as the pretence that such a purchase and admission into the Union are unconstitutional, is the only plausible justification for the otherwise treacherous or fanatical cry of

disunion, which so often deafens our ears. That cry originated on an occasion almost identical with this, when the act for admitting Louisiana as a State, in 1811, was pending.

In the debate on that occasion, a member from Massachusetts overflowed with such threats, till he was called to order for his violence, and escaped censure on an appeal from the Speaker's decision against him, only from a conviction in some of his opponents, that his threats would prove harmless. It was then the memorable saying was first uttered, which is now ringing again in our ears from the same class of politicians and from the same State, but with less point and elegance in these degenerate days. Mr. Quincy said:

"If this bill passes, it is my deliberate opinion that it is virtually a dissolution of the Union—that it will free the States from their moral obligations; and that, as it will then be the right of all, so it will be the duty of some, definitely to prepare for separation—amicably if they can, forcibly if they must."—(See National Intelligencer Jan. 19, 1819, and Lambert on Rules, 74th page.)"

It is true that the madness of faction can threaten disunion on the smallest, as well as greatest occasions, and may at times venture on it, unless deterred by a dread of the halter; but it is equally true that there is no more real occasion or justification for it now, than there was when so much vaporing passed off harmlessly in 1803 and 1811 about Lou-

"The democratic party, notwithstanding, passed the bill by a vote of 77 yeas to 36 nays. The former included those sterling republicans—the Crawfords, Macons, Calhouns, Bacons, Cutts, Fiskes, and even Clays and Roots; while the latter were made up of the Quincys and Wheatons, and the Hales and Wilsons, who then stood at the head of the federalism of the East. The original treaty had been ratified in a like manner by 27 republican yeas and 7 federal nays. How is the division of opinion on this subject now? At a whig anti-annexation meeting in Worcester, Massachusetts, a resolution was recently adopted 'to separate the free States from the others if annexation prevailed.' And ten members of the House of Representatives, headed by Messrs. Adams, Giddings, and Slade, issued a manifesto, last year, declaring that annexation 'would be identical with dissolution of the Union.'—(See it in Niles's Register, 175th page, for May 13th 1843.)

The Boston Times of the 1st inst., which arrived here this morning, says, likewise, 'the abolitionists passed a vote last evening to dissolve the Union.'

DUPLICATE

isiana, or than there was in the purchase of Florida in 1819, or the admission of Missouri in 1822. If those purchases and admissions were constitutional, so are these; and in order to allay the renewed excitement on this point, (honest with many, I have no doubt,) the patience of the Senate is asked a few minutes.

The words of the 3d section, article 4th of the constitution, are: "New States may be admitted by the Congress into the Union." This is the whole that bears on the point now under consideration, and is broad and explicit enough to cover all cases deemed expedient and proper by Congress, whether situated without or within our original limits. I admit that Mr. Jefferson, not having been a member of the convention which framed the constitution, did at first consider it doubtful whether, by construction, this power ought not to be confined to States within our former limits; and he even went so far as to have a clause for the amendment of the constitution prepared, to cover the case of Louisiana. But, after full examination, and conferences with others, it is inferable as certain that he became convinced such an amendment was unnecessary, as it was abandoned, and he not only completed the treaty, but signed the act of Congress establishing territorial government over what had been purchased; and Mr. Madison, with his republican coadjutors in 1811, became convinced that the power, now, and then, questioned, clearly existed, or they never could have supported the act for the admission of Louisiana as a State. In truth, so fully had their opponents become of a like opinion on this point, that the admission neither of Missouri nor Arkansas was resisted on this account; and the purchase of Florida in 1819 was approved as constitutional by every senator, federalist or republican.

The reasons for a change in opinion with some undoubtedly were, that the words in which the power was conveyed to Congress were unequivocal and explicit in favor of its widest scope—that they had been made more so in the progress of the constitution through the convention; and that this was known to have been done so not only to include one foreign territory, in the case of Canada, which had been specially provided for in the articles of the old confederation, but to embrace all the contiguous British, or Spanish, or vacant regions whose future union with us might afterwards be mutually desirable.

The framers of the constitution were men who looked deep into the future, and had no design to strip themselves of any high national powers or desires.

When it was objected by some, in debate in 1811, that, on this construction, States might be admitted, not only contiguous, but in the West Indies, South America, and even Europe, the reply seemed sensible and pertinent, that on the American theory of self government, no reason existed why we should not be allowed to admit any State that would conform to our representative system, and whose union with us should, by the majority of both countries, or the proper authorities, be considered mutually advantageous, and that we might well wish to extend the blessings of our government as widely as practicable.

So far as convenient and beneficial, the whole world may thus become partners, says Mansfield's Political Grammar, p. 143 and 144. This extended construction of the power has proved a salutary one.—(Story's Constitutional Class Book, p.

98.) It is settled beyond practical doubt.—(Duer's Outlines of Constitutional Jurisprudence, p. 186.)

Such is the view in Tucker's Blackstone, Ap. v. 1, p. 278. And the Federalist itself looked to the clause for admitting new States generally as designed to include foreign territories adjoining us. (See 43d No.)

So Mr. Macon said in the debate as to Louisiana, that the constitution was designedly made broad, so as to admit such a foreign territory and government as Canada, when agreeable to both; because the territory and people within our limits were already within the Union, and entitled to be, under old compacts, treaties, and cessations.

Such also was the view of Mr. Jefferson, under the confederation, (v. 1, Life, p. 398.)

Indeed, how could wars be prosecuted for wrongs inflicted, and just indemnity obtained, if any conquests of territory made could not be held? They can be and become a part of the nation.—(1 Peters's R. p. 542.) And if so, are we to treat them in due time, and when fit, as equals and component parts of the Union? or exhibit the shameful injustice as well as impolicy of keeping them in a disfranchised and humiliating servitude?

In 3 Story on Con. 193, it is laid down that "the general government possesses the right to acquire territory by conquest or by treaty." Again, 190-1: "The constitutionality of the two former acquisitions, (Louisiana and Florida,) though formerly much questioned, is now considered settled beyond any practical doubt."

It was objected in 1803, that, "under the form of a cession, we may become united to a more powerful neighbor or rival, and be involved in European or other foreign interests and contests to an interminable extent.—(p. 157.)

But the reply was, that "the right to acquire territory is an incident to sovereignty."—(p. 159.)

Every government that ever yet existed possesses a competency to add to its territory. It ceases to have the functions of an independent nation, if it cannot, by treaty or discovery, obtain new boundaries for convenience, or new lands for culture, or new ports for commerce; and, as before suggested, it is stripped of the national function of acquiring territory, when assailed by unjust war, and holding it either for indemnity, or profit, or security. And if we can acquire it, reason, as well as the words of the constitution, requires us, in due time, to make States out of it, and admit them into the Union.—(160.) Story says, in a note to this page, that the *Hartford convention* proposed to prevent such admission, unless by a vote of two-thirds of both houses; and by a report in that body, indirectly denied the authority to admit States or any territory without our original limits. But this doctrine has slept with that convention since, it is believed, till revived by Mr. Adams in his Texas speech, in 1838, in Congress, and his political address in New York in 1839.

How little ground exists for such a doctrine, even in the opinion of the greatest constitutional lawyer of his own party, may be seen by looking to 3d Story, pages 160, 161.

"Sec. 1283. The more recent acquisition of Florida, which has been universally approved, or acquiesced in by all the States, can be maintained only on the same principle, and furnishes a striking illustration of the truth, that constitutions of government require a liberal construction to effect their objects; and that a narrow interpretation of their powers, however it may suit the views of speculative philosophers, or the accidental interests of political parties, is incompatible with the permanent interest



of the State, and subversive of the great ends of all government, the safety and independence of the people."

This construction does not, as the senator from New Jersey argues, prevent the *blessings of liberty* from being enjoyed by the posterity of our fathers as they designed. Because there is enough at the bounteous table for all that posterity and any new associates. All such can participate with them in that freedom as they do in the air, water, and sun, without loss to either, and without exclusiveness and misanthropy.

In truth, our whole history serves to demonstrate the wisdom, on general as well as constitutional principles, of expanding our limits with the vast increase of our population and wealth. Such expansion prevents many of the evils of too dense a population, and secures the predominance of the safe, virtuous and republican pursuit of agriculture. It is said that we have a Sparta, and let us adorn it. But is there never to be an escape from the infant shell? nor any enlargement of the shell itself to suit the growth of the animal within? Is our Sparta to be confined forever to a garden spot, or single plantation? a single city? or a few barren acres, as in Greece, with iron only for money, *black broth* only for food, and our *sons taught stealing* as an accomplishment—instead of spreading over half a continent, improving the sciences and the whole arts of civilized world, covering remotest oceans with our commerce, and helping to spread abroad and at home superior education and a purer religion? Thank God! the scales fell from our eyes on this subject more than a quarter of a century ago, when Louisiana was purchased; and instead of trying to replace them, if we are able to preserve Oregon—gained both by discovery and purchase—and to recover Texas; we can, in another half century, not only again, as has been done, double our States, and nearly quadruple our wealth, numbers and power, but adorn, improve, and secure forever all the fair inheritance with which we are blessed.

When we look to analogies abroad of cases of whole territories and governments being ceded and annexed to other governments, whether monarchies or republican confederacies, they cluster thickly.

France herself is made up of a union of what was once different kingdoms; so of Spain; so of Great Britain; so of Germany. Indeed, England not only reannexed Wales—the favorite and just term now—but admitted Scotland as well as Ireland into a union with her, including government and the whole territory. The word *reannexed*, as now applied, is as old as Blackstone, who says: "*The territory of Wales being then entirely reannexed* (by a kind of feudal resumption) to the dominion of the crown of England."—(Vol. 1, 94 p)

But in confederacies, Switzerland has added and rejected various separate cantons, with their whole government and territory; so of Holland or the Netherlands; and so of the Mexican confederacy itself, now including one State formerly attached to Guatemala; so of Colombia; so of Buenos Ayres; sometimes adding new States, both territory and government, and sometimes amicably or violently separating. Indeed, several of the old thirteen colonies, now States, were originally obtained by England by treaties of cession.

In the Mexican constitution, (See 2 Kennedy, 427,) the power of their Congress is no broader than ours: It is to admit new States to the federal union or territories, incorporating them in the nation;

and under it one has been admitted, which never before belonged in any sense to Mexico.

Hence, whether we look to the words of the constitution, or to the practice under it, or to the analogies of other governments, whether American or European, the constitutional right to annex is undoubted.

All which the constitution requires to admit States, is the assent of Congress. Whether a treaty is also necessary to annex a territory seems questionable, unless it is regarded as done by a contract with a foreign power, which is usually commenced in the form of a treaty, and the terms thus settled with more convenience in the first instance. But there can be little doubt that, while the assent of Congress is alone sufficient, and is alone necessary by our constitution to admit a new State, it is proper to be given after a territory is bought by treaty, to the payments to be made under it, and to the organization of its new government and relations; and, if so given without a treaty, may answer every object of reason and principle involved.

But the idea that, in these cases under our constitution, it is necessary to have the assent of each State in the Union as a separate State, or the people of each, (and indeed, as Mr. Adams supposed in 1804, of conventions in each State,—4 Elliott's Debates,) except as both are represented in Congress, and then only a majority of their representatives in each branch to a law, or of two-thirds of the Senate to a treaty is not justified either by any language or precedent. No different assent than this last was asked in 1803, or 1811, or 1819, or any other occasion whatever. And the only analogy in support of it seems to be a practice in Holland to require the assent of the States separately to the admission of new States—when in truth the practice there originated in an express clause in the confederation to that effect. (See it in 2d Davies' History of Holland, 76 page.)

So another express clause in the old confederation required the assent of nine States out of thirteen in certain cases. When annexation was declined in 1837, it was on other grounds; and this point is explicitly stated by Mr. Van Buren, who was then President, to be no objection. In a constitutional point of view, the opposition "of a considerable and respectable portion of the community," as others argue, cannot rightfully defeat annexation, if there be a majority of Congress in favor of the measure; though such an opposition, and their reasons, would be entitled to respectful consideration, as in all other controverted cases. I admit, that the wishes of the people should possess much influence, and it is desirable to know them before action on important measures; but they are not, by the constitution, required to be first consulted before Congress or the treaty-making power can negotiate for territory. It was never dreamed of in the purchase of Louisiana and Florida, nor in the former attempts to purchase Texas in 1825, 1829, and 1835.

But, if it were otherwise, the senator from Missouri admits that ten or twelve millions out of fifteen of our free population are in favor of the annexation. A majority of more than two-thirds here, and of all the voters in Texas but 93, as stated by their commissioners, would then seem quite enough of the people themselves in both countries to satisfy the most fastidious.

How much some gentleman are likely to obtain by the advice of the people before they act—however it is wished—can be ascertained from the extraordi-

nary resolution, to throw 20,000 copies of the treaty and correspondence before the public, because "*the will of the people ought to be consulted on them*;" and yet refusing to wait a reasonable time to learn that will; and proceeding—the very next day, before a single copy was printed for the people—to discuss and decide on the measure.

On motion by Mr. WALKER, to amend the amendment proposed by Mr. CRITTENDEN, by adding at the end thereof, the following: *and that a reasonable time should be given to hear from the people after this publication before the final decision of the Senate upon the treaty—*

It was determined in the negative—yeas 15, nays 28.

Having endeavored to show our constitutional right to purchase the territory of Texas, and to unite its people in our government, and having thus tried to remove the great obstacle to the ratification, which blocks up the threshold of our inquiries, I shall consider the next point, which is the right of Texas to make the cession, and enter into the Union. The objection to the form of doing this business on both sides I will examine hereafter—as I am at present looking merely to the great principles involved in the authority to take and to cede.

It is contended by several who oppose the treaty, that Texas is not in a competent condition to make this cession without the assent of Mexico or Spain—some former master or tyrannical step-mother. Spain, it is believed, is pretty well silenced on this point by the great lapse of time since she has made any war on the territory of Texas, and any claim to govern her; or she is silenced by her recognition of the independence of all her American provinces. But how is it with Mexico? On what rest her claims to be consulted before the cession, so far as regards the power and capacity of Texas?

In the first place, the right of Mexico to Texas as ever having been an integral portion of her territory, and much less a portion of it since the independence of Mexico herself was acknowledged by Spain, is very questionable.

According to the opinions of such jurists and diplomatists as Jefferson, Madison, and Monroe; of Livingston, Clay, and Adams, (in 1818,) Texas was within the limits of Louisiana, when bought by us in 1803, as clearly "as the island of New Orleans." I shall not fatigue the Senate with details on this. But Texas had been discovered, and settled by the French in 1685, five years previous to any Spanish settlement.—(Marbois' Hist. of Louisiana, 107.) It had been viewed as "the cradle of Louisiana."—(4 Jeff. Life, 60.) It was in the grant by Louis to Crozat, in 1712.—(1 Laws, 439.) After ceded to Spain, in 1761, its boundaries became unimportant; but when retroceded to, and occupied by, France in 1800, she claimed as formerly, and delivered it to us by her officers in 1804, as extending west to the Rio del Norte. It was boasted by Don Onís, the Spanish minister, who negotiated the treaty of 1819, after his return, that by his ability and tact it had been procured from us. Mr. Forsyth to Adams, July 30, 1820, says that Don Onís "endeavors to show that the treaty of cession of Florida ought to be considered as a treaty of exchange of Florida for Texas, a country more extensive, fertile, and valuable." The Spanish government itself seems to have instructed their minister that we might retain it, if no better terms could be procured.—(See Erving's Exposé.) And Mr. Gallatin, after laborious research, before 1810, became

convinced the territory was ours; and our posts had therefore, as early as 1806, been extended beyond the Sabine to Nacogdoches, one of the remotest settlements of much size.—(1 Laws, 437.) And Galveston itself was temporarily occupied by us in 1817.—(4 State Papers, 297. See more fully on this, Marbois' History of Louisiana. 4 State Papers. 4 Jeff. Life, 60. 2 Foot's History of Texas, 397, 376: 1 Do. 194. 2 Kennedy, 445. 1 Clay's Speeches, 82 and 93.)

Under what pretence, then, can Mexico claim it? In 1819 we ceded it to Spain, not Mexico; and if, as some incorrectly maintain, Mexico was then revolutionised, she of course got nothing by this subsequent cession to Spain rather than herself. But if, as was the truth, Mexico never became independent of Spain, even by declaration, till February 24, 1821, though before torn by intestine divisions, all avowing loyalty to Spain, she claimed her independence only two days after the treaty of 1819 was finally ratified by us, and before Spain was notified thereof, or had taken possession of the territory, or had annexed it to Mexico; and months before Mexico got possession of the government of the country.

This is one view of the weakness of the claim of Mexico. Another is, that Spain had previously made claim to Texas; and, "under the Spanish government, Texas was a separate and distinct province. As such, it had a separate and distinct local organization."—(See 1 Foot's History of Texas, p. 62.) When, therefore, her people, between 1821 and 1824, revolted from Old Spain, and declared themselves independent, and formed a new constitution and political organization, whether always before belonging to Spain or given to her by our cession in 1819, they acted as a separate, free, sovereign, and independent state, as much as did New Hampshire or South Carolina in 1776. Then, 15,000 people, probably, (besides Indians,) occupied her territory. As such, she continued in a revolutionary condition till, Iturbide being shot, she joined the Mexican confederacy with Coahuila, in 1824; and with her, as a separate independent state, continued in the confederation under certain specified terms till 1834 and 1835; though she wished a separate state government in 1832, having, in October of that year, held a separate convention from Coahuila, to form a separate constitution, and blocked one out; and sent Austin with it and a petition to Mexico, setting forth the reasons for separation.—(2 Kennedy, 19 to 22.) He proved unsuccessful, and was imprisoned; and, in 1834 and '35, when the confederated rights of Texas were violated by Santa Anna, her people oppressed, her state legislature abolished, and the confederacy dissolved, a consolidated government was erected on its ruins, October 5th, 1835, and she refused, as was her sovereign right, to enter into the new government.—(See the decree, 2 Kennedy, 111, 89, 61.) She continued during 1835 to contend manfully against the usurper, and to sustain her independent rights till the final victory of San Jacinto in April, (26th,) 1836, crowned her efforts.

Her constitution—early as March 11th, 1827, and while in the confederacy with Mexico—used this emphatic language: Texas "is free and independent of the other United Mexican States, and of every other foreign power and dominion."—(See 2 Kennedy's H. 444 p. Ap.) And again: After stating that she has joined the confederacy for certain specified purposes, the constitution declares that, for



all others, Texas "retains its liberty, independence, and sovereignty."

What justifiable pretence, then, has there been since for Mexico to attempt to dragoon a separate and independent state into a new form of government, or into subjection to her tyranny? What right of Mexico has she violated? The wrong is on the other side; and it is Mexico, to whom she owes neither duties nor allegiance, that is usurping a control over her affairs not justifiable either by sound principles of constitutional law, or the great axioms on which the right of our own States and their people rest.

Let it be remembered, also, that Texas, beside being an independent sovereign State ever since the original revolution in 1821, and the first Mexican constitution of 1824, had entirely separated from the confederacy, when it was dissolved in 1835, as she had a right to, one to two years before the independence of Mexico herself was acknowledged by Spain in December, 1836.

Texas had attempted independence, and half a year after, at San Jacinto, resisted Mexican occupation and control; and hence may not have been included in Spain's recognition of Mexico alone.

Bring these facts home to our own system of government. Look at the analogies and rights. Read the eloquent and indignant remonstrances of Texas against the assumed authority over her; in her new declaration of independence, and new constitution in 1836, and our hearts cannot but burn within us at the worse than British dictation and oppression which are claimed and attempted to be exercised over her; and if cause of just war exists at all, it is on the part of Texas, and against Mexico, rather than the reverse.

But if any consider this view of the case as in some respects not tenable, we invite their attention to another aspect of the subject, which strengthens much the right of Texas to make this cession, and be received into the Union, and enjoy all its benefits, as proposed by this treaty.

When we purchased Texas within the limits of Louisiana in 1803, we engaged, by treaty with France, to perform the solemn duties set out in the 3d article, 1st Laws, p. 136.

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted *as soon as possible*, according to the principles of the federal constitution, to all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Now if any of the people of Texas reside on territory then within the boundaries of Louisiana, this obligation remains in full force, unless France has released us from it, or those people have relinquished it, and do not now desire its fulfilment.

I concede that we may have done acts which bar or estop us, both morally and politically, from making any further rightful claim over them against their consent; but have they ever become constitutionally divested of their right under that treaty provision?

I have already proved that the territory of Texas was geographically within the limits of Louisiana, and whatever may be her present true boundaries, it is well known that the people of Texas, now asking admission, reside on that part of her territory conceded by all not to be west or north of her old limits.

The obligation imposed on us in 1803, then—how have we become exonerated from it? In no way, I

apprehend, unless by the treaty made with Spain in 1819, ceding all our territory west of the Sabine, and thus ceding away Texas herself. To understand the precise character of that treaty, it is necessary to notice that it was not, as many have hastily supposed, a treaty merely defining, with particularity, limits before general and uncertain, between contiguous nations.

But, turning to the third article, (6 Laws, 616,) it will be seen that, after describing a line north from the mouth of the Sabine, and then northwest and west to the South sea, "the United States hereby CEDE to his Catholic Majesty, and RENOUNCE forever, all their rights, claims, and pretensions, to the territories lying west and south of the above-described line; and, in like manner, his Catholic Majesty *cedes* to the said United States all his rights, claims, and pretensions to any territories east and north of the said line; and for himself, his heirs, and successors, renounces all claims to the said territories forever."

Besides fixing some boundaries before doubtful, the treaty of 1819 was thus manifestly one of cession; as much so, on our part, of Texas, as, on the part of Spain, of the Floridas, the same language being used in both cases. The territory then being very large, and its inhabitants several thousands, it was neither constitutional nor right to cede them away, and deprive them of their claims to be admitted into our Union under the Louisiana treaty, without first asking and obtaining their consent. Neither of these was done; and whatever acts they have since passed, under a supposition that their claim had by us been legally extinguished, are not to injure or debar them *in forum conscientie*—in sound morals or just principles—from now requesting, as they virtually do by this treaty, a reunion and admission to all the privileges before stipulated to be allowed them. These positions are so important as to justify some further proofs that the treaty of 1819 was then regarded on both sides as one of cession. The message of Mr. Monroe, in December, 1819, says "we had *CEDED valuable territory*;" and Mr. Clay, in 1820, declares that we unadvisedly *CEDED* the country west of the Sabine to the Rio Del Norte. So, Mr. Adams, before the ratifications were completed, (May 3d, 1820, 4 State Papers, 684,) says of the United States, "their right of territory was, and yet is, to the Rio del Norte;" and (in February, 1821,) "these concessions on the part of the United States were great; and the treaty was a treaty of *"mutual cessions*;" (4 State Papers 703;) in the words of Don Onis, it was a treaty of exchange of Florida for Texas—a country more extensive, fertile, and valuable.

The propriety of that exchange or cession is a very different question; and however proper most of it may, as early as 1806, have seemed justifiable to one House of Congress, and the whole of it advisable to all of the other House, and the President, in 1819, yet with the knowledge we now possess of the value of Texas, and the land ceded on the sources of the Red river and the Arkansas, as well as of the better terms which might probably have been procured of Spain, the cession is much to be regretted.

But before complaining too severely of those who participated in the making of the treaty, and in its ratification, by having obliged us not only to pay five millions of dollars for Florida—a country that has been called mere sand banks and swamps—but to cede the whole of Texas, larger and richer

than three Floridas, it may be well to advert to one or two considerations. The title of what we ceded was controverted, however improperly; but that of what we obtained was uncontroverted. The extent and character of Texas were then little known or appreciated; while the importance of the possession of Florida by us, with a view to the free navigation of the Mobile and Apalachicola was thoroughly understood, as well as its benefits to the rich countries above, of having American depots and outlets for their produce near the ocean, and additional guards to the domestic tranquillity of the South, and the security of her peculiar property and institutions. These circumstances induced Mr. Jefferson, as early as the attempt to buy Louisiana, to seek to obtain the Floridas also.—(4 State Papers, 733—9.)

It is not a little curious that, in the original instructions, they extended only to the buying of that part of Louisiana consisting of the island of New Orleans, or all east of the Mississippi, and including, at the same time, the Floridas; but neither Texas nor anything else west of the Mississippi.—(See Doc. 102, 19th Cong., 1st session, to the Senate, dated 20th May, 1824. The following numbers refer to letters in that document: Nos. 462, 460, 466, 463, 471, and 476. See also 2 State Papers, pages 537, 541, 516, 520, and 529.)

The value put there on the different objects of purchase is significant, as for New Orleans alone the minister was to give three-fourths of the whole sum, and for the Floridas the other fourth; but only half as much for East as for West Florida, if obtaining but one of them.—(See page 743, Doc. 102.) At one time we even proposed to guaranty to Spain the west side of the Mississippi, (Madison to Pinckney, May 11th, 1802, No. 462, as above,) should she cede to the east side.

The cession of the whole province of Louisiana was rather a proposal from Bonaparte than ours; fearing lest, in an approaching war with England, she might seize the rest; and urging, as a reason for it, that the rest, if not wanted by us, could be sold by us to some other power.—(2 State Papers, 552, Livingston to Madison, No. 476, in document above.) How fully and authentically does this fact repel all the libellous imputations then and since made against Mr. Jefferson and us, for seeking Louisiana (including Texas) from ambition and the love of aggrandizement. But after Louisiana was obtained without Florida, the latter was still regarded as so essential, that, on a message by Mr. Jefferson of a confidential character, in January, 1806, Congress itself, in secret session, matured a law appropriating \$2,000,000 to enable him to make the purchase; and the object of the law was concealed from foreign scrutiny and intrigue, by entitling it "An act to defray any extraordinary expense which may be incurred in the foreign intercourse between the United States and foreign nations."—(4 Laws, page 5, February 13, 1806.)

In order to aid in that negotiation, the following memorable resolutions were passed in the House of Representatives, in secret session, and are, in truth, I apprehend, the whole foundation of the subsequent cession of Texas in 1819, whose demerits have been the object of so much animadversion. There had been instructions before to make the Colorado the western boundary, if every difficulty could thus be adjusted with Spain, and the Floridas obtained; but an absolute refusal to cede any part of Texas or Louisiana east of the Colorado.—(See fully on this 2 State Papers, pages 626 to 666, con-

taining letters from July, 1803, to May, 1805, to and from our ministers at Madrid.)

Here are the resolutions:

"Resolved, That ——— dollars be appropriated by law towards defraying the expenses which may be incurred in the purchase of the Spanish territories lying on the Atlantic ocean and Gulf of Mexico, and eastward of the Mississippi, to be paid out of any money in the treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall have authority, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, redeemable at will; and shall cause an account thereof to be laid before Congress as soon as may be.

"Resolved, That an exchange of territory between the United States and Spain is deemed by this House to be the most advantageous mode of settlement of existing differences respecting limits between the United States and the court of Madrid; and that any arrangement between the two governments which shall secure to Spain an ample barrier on the side of Mexico, and to the United States the countries *underlaid by the Mississippi*, and to the eastward of it, will meet the approbation of this House."—(See House Journal for January 14, 1806, appendix, pages 437 and 438.)

The negotiation was at once renewed, with a view to buy the Floridas, or get them in exchange, on those or better terms.—(See 3 State Papers, pages 539 and 540, March 13, 1806, Madison to Bowdoin.)

In truth, so vital to self-preservation and peace was the possession of them regarded, not only in 1806, but in 1811, that the forcible occupation of it in the latter year was authorized by Congress, as will soon be more fully explained. And again in 1820, Mr. Monroe advised another forcible occupation if Spain longer refused to ratify the treaty of cession in 1819, which the Senate had already ratified unanimously. After this retrospect, and much more that need not now be detailed, I can readily conceive that, not only in 1806, but in 1819, when the extent and value of Texas were less known than now, and when the Floridas were so much nearer, some of the old and well-settled States and their possession so highly appreciated on other accounts than their soil—that such a resolution could be easier passed by Congress, and easier complied with by the executive, than now.

In the then infancy of the republic, and the comparative ignorance of the sources of some of the tributaries of the Mississippi, and the vast western extent of Louisiana, the west side of that river was much lower appreciated that it deserved; and only one State was contemplated to be established on that side, and a large reserved territory to be held for the Indians.—(4 Jeff. Life, 51.)

But we had hardly parted with Texas before the explorations and enterprise of our people, under the blessings of peace, unfolded more as to the extent and fertility of that region, and the remote sources of many of our beautiful rivers; and it was soon discovered that we had failed to retain even what Congress had originally intended in the resolution should not be ceded—that is, all the land on all the tributaries of the Mississippi.

A large and valuable tract on the Red and Arkansas rivers was parted with, either through want of correct geographical information, or other causes now unknown, and conflicting with the resolution.

Hence in a few months inquiries arose in Congress whether more had not been ceded than was proper; and a resolution was offered by Dr. Floyd to ascertain if Spain had not empowered her minister to go farther west with the line, and if that fact was not known to the Secretary of State.—(Journal of

House of Representatives, January 27, 1820, p. 176-7.)

Hence, too, as soon as April, 1820, Mr. Clay offered the resolutions now in my hands, calling in question the legality of the cession, as well as its expediency. I will read the first one:

*Resolved*, That the constitution of the United States vests in Congress the power to dispose of the territory belonging to them; and that no treaty purporting to alienate any part thereof, is valid without the concurrence of Congress."

Hence, not only were efforts made by him and Mr. Adams, as early as 1825, to regain the whole country by a purchase from Mexico, and again in 1827, and again in 1829 by General Jackson and Mr. Van Buren, and thenceforward till 1835, when Texas declared her independence, but in the Senate Mr. Preston, in 1838, offered another resolution, that the original cession in 1819 was "*of evil precedent, and questionable constitutionality.*"

Without going further now into the historical data connected with this branch of the inquiry, it must be evident that if the cession in 1819 was void from any cause, Texas, being within the original limits of Louisiana, ought now to be, under the stipulations of the treaty of 1803, protected in her religion, indulged in all the rights of American citizens, and, as soon as possible, admitted into the Union on equal terms with all other new States. I do not go for technicalities for or against this view of the subject; nor am I disposed to allow little special pleading, by estoppels or forms, to prevail against her moral claims on us—her substantial and legitimate rights. How are the merits, then? France has never released us from the obligation, in the treaty with her, to admit into the Union all the territory then within the limits of Louisiana. Texas has never been asked to release us. Could we, then, become exonerated by our own acts alone? Certainly not, as we are but one party to the contract.

No principle is better settled, than that a government of limited powers, having once acquired territory, or admitted States into its Union, cannot sell portions of them to foreign powers. There is no such grant in the instrument—there is no such practice. The disposal of the fee in wild land to individuals and companies, is all the power in selling territories or States, which has been exercised in other cases, under this authority. But in no case has the jurisdiction or sovereignty over the people in territories and States, whether few and small, or numerous and large, ever been exercised without that express assent of the parties in interest, previously obtained, which, on elementary principles, can confer any right, or ratify any transaction. Here the territory was large enough to be consulted, and its population—it being, beside Indians, quite 15,000, probably, in 1819. It had been 7,000 when Pike visited there twelve years previous. Hence, while Vermont would be admitted into the Union by the assent of a majority in Congress, after 1789, yet we did not consider Congress, or the President and the Senate, competent to cede a part of the territory of Maine in 1842, without asking her previous consent. Hence, early as 1793, Mr. Jefferson, and others of General Washington's cabinet, doubted whether any part of the northwestern territory could be ceded even to the Indians, and much less its jurisdiction to any foreign power.—(See 1 Jefferson's Life, page 409. 4 Jefferson's Life, page 479.)

The old Congress of 1786, (4 Secret Journal, page 100,) held that the United States possessed no

power, by a treaty, to convey a part or parts of the territory of the United States west of the Alleghenies; and Vattel, book 1, chapter 21, section 260, holds, that only the nation, or its representatives, and not the prince, or treaty-making power, can cede territory. And it seems well settled in England, that no part of the realm can be dismembered or alienated without the consent of Parliament, as well as of the King.—(Book 116, chapter 2, sec. 10.) Mr. Sheffield, in debate, (National Intelligencer, January 5, 1811,) pronounced the opposite view, as to a part of a State, "a doctrine spurned at by all."

Mr. Clay maintained, in 1820, that it could not be done without the assent of Congress; but the better opinion is that the territory or State ceded must consent, and not Congress alone.

The cession, then, of both jurisdiction and soil in Texas, in 1819, without the previous consent of its actual inhabitants or territorial government, was irregular and imperfect. Whatever subsequent acts might be regarded as a technical acquiescence in the cession, it was still, in point of law, erroneous, and must be a departure from treaty stipulations, unless we now, when requested, admit them to all the privileges originally promised. There can be no doubt, if these positions are well supported, that they are fully competent to ask our assent to the retrocession and reunion; and thus, without regard to forms, do in substance all which is necessary on their part to perfect the measure. But while contending for this in their behalf, on great principles of moral and political obligation, I would not do injustice to any other power with whom we inadvertently made new and incompatible engagements. Though those engagements are, according to Vattel, inoperative, the first treaty being valid over a subsequent one which conflicts with it, yet any injury done by annulling the subsequent cession ought to be remunerated to the party suffering. But that party, whether Spain or Mexico, have now no cause of complaint, and suffer no loss by this construction; because, since that cession in 1819, and while it remained *de facto* in force, Spain, in December, 1836, relinquished all her claims over Mexico, if not Texas; and the latter has been independent of Spain for more than twenty years, and for more than ten years has resisted the usurpations of Mexico over her rights as a separate and sovereign State, and for eight years has declared and maintained her independence as to the whole world.

There will be then a great moral fitness and beauty in the disposition of human affairs, if now, after the lapse of a whole generation, we should be able, by the reannexation of Texas, to meet the wishes of her people in being admitted to the blessings of our Union, and should, at the same time, fulfil our own previous treaty stipulations in their favor; and, without injury to any rights of others, should regain a territory so vital to so many interests of all sections, and so long and so devoutly sought for by such a succession of statesmen and patriots.

The solemnity or inviolability of the treaty of 1803, is quite as great as that of 1819 or 1823, or any other since, and its obligations on this subject are both prior and paramount.

But, supposing that both these views are untenable; and, for the sake of argument, indulging a moment in the idea that Texas was not embraced within the limits of Louisiana, or, if so, was legally ceded to Spain, and afterwards became an integral part of the Mexican empire: had she not, when the terms of her confederacy with that



government became wantonly violated, her citizens imprisoned, and her privileges outraged—had she not a right to assert and maintain her independence? Would she not have been false to her American blood, not to have done it on the field of San Jacinto, as well as down to the present moment?

Among the long list of grievances and usurpations set out in the declaration of her independence, (Senate document, No. 415, June 23, 1836,) was this: that Mexico "has dissolved, by force of arms, the State Congress of Coahuila and Texas," as well as denied liberty of conscience, and committed piracies on her commerce. For such as these she made that declaration, and has since sustained it with the rifle and the bayonet.

On the American system of politics, had she not a right to separate for such abuses and violations of duty on the part of Mexico? Listen to the doctrine—which some seem to forget, but which is laid down in our own declaration of independence on this subject, penned by Jefferson, and sanctioned by Franklin, Hancock, Adams, and their patriot coadjutors:

"When a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them (the people) under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security."

What is the American system as adopted by my native State, and most of the others in the Union?

"The people of this State have the sole and exclusive right of governing themselves as a free, sovereign, and independent State," &c.

"All government of right originates from the people."

"Whenever the ends of the government are perverted, or public liberty manifestly endangered, and all other modes of redress are ineffectual, the people may, and of right ought to, reform the old, or establish a new government."—(See the New Hampshire constitution.)

See also 2 Barlemaque, p. 128, stating that a people may, for a good cause, always revolt and change their government.

Mr. Clay's speech, on the recognition of the independence of South America, and Mr. Webster's on that of Greece, are full of these doctrines, however heretical their views may be on some other questions.

By this (the true American system of politics) man is regarded as a free agent, possessing a right to self-government. We hold that communities may not only change their form of polity, but divide and erect a separate institution, when oppressed and driven, by a series of wrongs, into revolution and independence. Mankind, in our theory, do not hold their rights from kings or royal charters, or holy alliances, but from God; and far from its being proper to sympathize with, and defend, oppressive governments in reconquering revolted subjects, it is false to our own course in the revolution to dream of it; and the hearts of the whole American people should burn at tyranny—should sympathize with the suffering, invigorate public opinion in their favor; and, as soon as duty may permit, after their independence has become in fact established, through a new government instituted, and new laws and rulers selected, and stability and quiet given to their national affairs, we ought to acknowledge both their *de facto* and *de jure* existence—their full right to come into the family of nations, and exercise all the powers of independent sovereignties. The other side of this question is the British or European side. Theirs is the doctrine of eternal allegiance. Ours that of free agency and

self-government. Theirs is the doctrine of the divine right of kings. Ours that of the divine right of the people. Theirs is the doctrine of tyranny over the mind and conscience—the reign of it upheld by the bowstring, the inquisition, and standing armies. Ours is the doctrine of liberty, upheld by reason, intelligence, and sound morals. In some respects, the struggle between these principles has been going on since civilization has been much diffused, and especially between colonies and their parent country—the former striving for privileges commensurate with their growth and rights. It is the child become a man, and claiming the authority and immunities of a man; and is to be countenanced, rather than proscribed. All people thus situated, in all time—whether Carthaginians from Tyre, Greeks from Egypt, Marsellois and Syracusans from Greece, Spaniards from Rome, North Americans from England, or South Americans from Spain—all have thus acted, and been thus recognised and sustained; and so must be Texas. But we were destined to open the drama on the new continent.

The colonial system thus prostrated here in 1776, and a new government like our own springing up on its ruins, astonished the powers of Europe, as well as all the Old World, as much as the original discovery of America by the great *world-finder* who breathes in marble by Persico in front of the Capitol. Yet, forsooth, we hear it now gravely argued that a people like those in Texas cannot, *de jure*, cede their territory, or unite with us in government; but must first, with due humility, ask leave of Mexico, or submit to be reconquered by her, and have the conveyance emanate from her, in order to have it suit our opponents' modern American notions of self-government: and all this, though Texas revolted for as good cause as we did from England, though she has established as good a constitution and laws, and though she has maintained them all firmly and unimpaired for years, and has been recognised and negotiated with as a sovereign and independent nation by all the great powers of Christendom! Yes: kings, at the Congress of Vienna, may cede principalities and powers, extinguish old or create new governments, and transfer the people like sheep in the shambles; or kings alone may partition Poland, and blot out obnoxious dynasties and empires from the map of the world—as England does over and over again in India;—but a sovereign people and their established government, by a vote almost unanimous, are to be held incompetent to cede their territory and change their government. And this is to be held, also, by us Anglo-Americans and Spanish Mexicans, who exist as nations only by revolts and changes of their own governments; and, furthermore, that, if we dare only by peaceful negotiation to take the cession, it ought to call down on our presumptuous heads all the horrors of foreign war.

What are the more specific points in this objection interposed by senators in debate?

First, that, though independent and sovereign, the republic of Texas is not competent to cede its whole territory, though it might be to cede a part. And it is urged that, in the case of Louisiana and Florida, only a part of Spain and France was ceded.

But how absurd does such an objection appear, when, if Texas owns 200,000,000 of acres, she might legally cede 199,999,999 acres, but not that and the other acre; or she might legally cede a quarter of it at one time, another quarter at another, and so through the whole, except the last! No, sir; she is neither entirely independent nor entirely sover-

aign, if incapable of conveying the whole. Such are the principles of national law.

"A free people, or a king, may alienate their territory, in part or in full."—(Grotius, 2 b., ch. 6, sec. 7.)

And if in full, then the union of their people with our form of government follows—as a matter of course, unless they choose to emigrate elsewhere, and join some other government, or form a new one, on some vacant portion of the earth—like that of *Aeneas* and his companions from Troy, or Dido from Tyre. And if the people and the independent republic of Texas are, for this reason, not as competent to unite with us entirely as they are to cede only a part of their territory, then the absurdity would seem to follow that they never can be competent for admission into the Union, though recognised by Mexico, and no shadow of war existing, till they become qualified by abandoning their independence, repudiating republicanism, and, as a servile dependency or reconquest of the monarchs of Spain or Mexico, be sold merely as a portion of their territory to the United States.

When senators contend that this cession of the whole destroys the ceding government or nation, and is hence impracticable and unprecedented, they forget that the nation may still hold together and migrate, or may agree to unite with the neighbor to whom their territory has been conveyed; and that this is neither unusual or unreasonable. Pray tell me, did not Rhode Island unite with us—all her territory, and all her people, and all her government—rather than a part; and thus became annexed to that Union whose constitution she before had refused to aid in forming, and refused to adopt till, in all quarters, denounced and reproached by your fathers, and till legislative penalties and burdens were threatened to her by the administration of Washington himself? But, notwithstanding this, does the senator [Mr. SIMMONS] admit, as he argues about Texas, that Rhode Island was incompetent to unite with us; that she came in only under the threats of Congress, and hence it was void; or that her "*lone star*" (all the other old States being then under a new constitution without her) became, by a junction with them, blotted out, extinguished, and her sovereignty destroyed? Just as much in her case as in that of Texas; and, as I have shown before and will ere long again, just as much, and no more, as new provinces and their whole governments were destroyed by uniting with Holland, and others with Switzerland, and others with Central America, and others with us.

It is true that, if the republic thus ceding and uniting, is under obligations to others, she cannot thus become rid of them; but they remain on her, or the whole government to which she is joined? Such are her obligations by treaties, and her liabilities or exposures for wrongs, or for claims, however unjust, by other powers. But that does not impair the full right to make a cession, though it may affect the expediency and duty of us to take it, if the liabilities are very onerous, or her belligerent dangers very imminent or unjustifiable.

We will look into that soon, after disposing of the question of the right to cede the whole. The only other point in the objections, I have heard urged against that right, is the claim still set up by Mexico to rule over Texas. But, however that claim may be obstinately persisted in, I contend that, after all which has taken place, and now exists, it does not impair the right of other nations

to take such cession, or of Texas to make it. Please to note the distinction.

The incident that a war may be waged by any belligerent against any purchaser of territory from the other belligerent, does not impair the right to sell; for the vender may have owned the territory for centuries, and been recognised by its antagonist, as well as the rest of the world. But it does influence the expediency of buying, and more especially if the belligerent conveys all his territory, and unites his government with another; because, in that event, I admit that the risk of such claims, and such hostilities as exist—all the incumbrances are assumed. Yet this is the whole, and is no impeachment of the independent and sovereign right to convey; that right Texas has, if she possesses the usual attributes of a nation.

"She is one, as before explained in a recent letter of mine on this subject, in such manner and form, no less than substance, as, in my apprehension, justifies other nations in treating her as a *de jure* as well as a *de facto* government, and competent, under the principles of popular liberty, and the soundest international law in both hemispheres, to cede her territory, or unite her government to another, without asking the consent, or giving just cause of war to any power.

"What are the common-sense tests on this subject? If size of territory, she is as big as France, and as large as any four of our own States. If population, she has one ranging by different estimates from two to three hundred thousand people of all kinds. If a regular constitution of government and code of laws, she has both. If a uniform administration of justice and the rights of conscience secured to all, rather than the protection of the Catholic religion alone, as in Mexico, she enjoys them. She has troops and ships of war. She has had her independence acknowledged by the United States, by Great Britain, France, Holland, Belgium, and, indeed, all the great powers of Christendom, not under the sway of the Holy Alliance; and she has treaties of commerce and international agents with most of them.

"No towns, castles, or counties, have there been held by her old enemy in doubtful or divided empire. Her revolution is not in embryo, but full grown. Not going on by preparatory steps, but finished—stable. Not distracted by rival constitutions, rival chieftains, and rival armies, such as long desolated many Spanish provinces, but domestic harmony and peace reign throughout. Their prisons are not filled with political victims. Order, and law, and the rights of property, are respected; and neither taste, nor education, nor sympathies of any kind, are lingering round their former government, and smoothing the way to the remotest thought at reconciliation. But Texas has other qualities and characteristics as a nation, showing her competent to enter into any contract or arrangement with other nations, as fully as the oldest power of Europe. Besides having been for several years admitted, in all respects, into the great family of nations, she is liable for her own wrongs to them, and is held so, and not Mexico, as appears by her treaty of indemnity to us in 1838. She is authorized to seek redress for injuries to herself, and not Mexico for her; and she has, in this way, and by treaties binding her commerce, limits, soil, and jurisdiction, been much wider acknowledged, and longer in the independent government of herself, than had Bonaparte in France when he sold Louisiana to us. Such, I ad-



mit, was not the position of her affairs when annexation was proposed and declined in 1837; but their affairs have made great strides since; and one unfortunate mistake with some, in the consideration of this topic, appears to be in not reflecting enough on the changes in her relations and national maturity and stability, made by the progress of time and events during the past seven years. It is manifest, that if a people have, by sound principles, a right to self-government, and, when oppressed, can, like the United States, properly revolt from England, or Mexico from Spain, or Texas from Mexico, and having declared their independence, do maintain it till they give, as in this case, all the usual indications among nations of manhood—discretion, power, justice, and order, the question of their *de jure* sovereignty thus becomes as clearly settled in respect to all third persons as their *de facto* sovereignty. The assent or acknowledgment of their old masters does not constitute the right, but merely admits it; as the minors or apprentices, claiming to be adults and free, and acting as such, derive their rights from the facts of the case, whether acknowledged or not by those to whom they were once in subjection. The world must otherwise become divided into mere holy alliances, with all their monopolizing dogmas on the one hand, and on the other only such as they consider mere rebels, pirates, and banditti; breaking up in this way all reform or progress, and yielding to the claim of the divine right of kings over all the human race, till voluntarily relinquished. The war of opinion on this question was settled in favor of the people, after sixty years of desolation and carnage on the plains of Holland; again at Lexington, Saratoga, Yorktown; again in Europe, after deluging France in blood; again and again on both slopes of the Andes, as well as in Mexico herself, on a basis never again to be shaken in the New World.<sup>11</sup>

Moreover, she has a body of intelligent and talented men of the true Saxon race. And if all these do not constitute a State, what does? Not kings, garters, and titles of nobility—not high-walled battlements, nor moated gates—but “men—high-minded men—who know their rights, and knowing, dare maintain.”

The last objection under this head is, that, though she may be a *de facto* State, she is not one *de jure*; and therefore possesses no competency to make the cession.

What is a *de facto* government as contradistinguished from a *de jure* one? It seems to be argued that one merely possesses power, regardless of right or without reference to right. The other not only possesses it, but rightfully, under good authority, *reasons*, or laws; for *jure* means only one or the other, as occasion requires. Thus, Cromwell's government has been called a *de facto* one. But without reference to his ultimate rights in respect to the Stewarts, many other nations made treaties with him, as rightful head of England, in less than one year after he became protector. Such as that with Denmark September 15th, 1654, when he had been protector only since December 16, 1653, and in 1654 with Sweden, Portugal, and France.—(3d col. of treaties, 67.)

The possession of power, I grant, must not be merely *momentary*, and unsettled or changing, but apparently firm. (Martin's Laws of Nations, b. 7, chapter I.) And he was well known to multiply his treaties in order to strengthen his claim of right.

In this way, he soon became so fully seated in

power, and the nation so acquiescent, and the Stewarts so incapable of disturbing him, that his treaties of alliance and cessions, as well as other treaties—like those of Bonaparte to us of Louisiana, in less than two years from his acknowledgment by other powers—must be regarded as right and valid. What Stewart or Guelph since have dared to violate any of Cromwell's treaties as not made by a *de jure* government, so far as respects all foreign powers? What Bourbon has, since 1803, ventured to attempt to vacate Napoleon's treaties of cession with us as well as other powers, for not being made by a *de jure* government, looking to the rest of the world?

But there is much more in the present case as to the *de jure* government of Texas, if we regard its origin and our own system of politics. Texas has been, as we before intimated, an independent and sovereign state, with an excellent separate constitution, near twenty years. Her union, during a part of this period, with the Mexican confederacy, does not alter this. She has since broken no obligations as to that confederacy, but they have all been broken by her oppressors; and these last are the real rebels and overthrowers of the confederacy, and not she. Texas had reason, authority, and law—all to resist the assaults of Mexico for enslaving her to a new and consolidated system. She had never entered into any such system. Her efforts to maintain her independence under those assaults have been as rightful as ours in 1776. She has, since 1836, been independent even of the confederacy, and been a *de jure*, as well as *de facto*, sovereign government; and though, in 1837, the union with her might have been more likely to expose us to war, and hence not prudent, it would, in the other view, as *de jure*, have been perfectly justifiable, if her government then had appeared to be settled, mature, and efficient.

It is most extraordinary, that the right of Texas to cede to us her territory without the consent of Mexico, should now be made by those, who, in 1825 and 1829, did not question the right of Mexico, *de jure* as well as *de facto*, to cede Texas without the consent of Spain.

How stood the facts then as to details? Mexico, though revolutionary, and with internal disturbances under Spanish supremacy between the Creoles and others, from 1810 to 1821, yet never sought nor asked independence of Spain; and both parties vied in loyalty to her, till Iturbide's defection, and the declaration of independence, made at Iguala, 24th February, 1821.—(4 State Papers, 848, 835, and 1 Foot's History, 94, 96, 99.) The troops and power of Spain were driven from the capital and most of the cities during that year; but the castle of Ulloa, at Vera Cruz, continued in the possession of the mother country, when we recognised her independence in 1822, and when we first applied to repurchase Texas in 1825, as extending to the Rio del Norte. The constitution of Mexico admits that her independence never commenced till 1821, being “given in Mexico 4th October, 1824, fourth year of independence.”—(2 Kennedy, 443.) Yet in only one year after the adoption of this constitution—only four after her independence was declared, and but three after it was recognised by us, all short of what prevails in Texas now—Messrs. Adams and Clay thought she had the *de jure* right to cede territory to us, without asking the consent of Spain, and without heeding the adoption of any war then existing.

How could that be legitimate, if Texas, after being an independent State near twenty years, and separated from Mexico eight years, cannot now be

allowed as *de jure* competent to negotiate for selling her territory without the consent of Mexico? Like facts apply to 1829; and they are appealed to now, not for taunt or recrimination, but as evidence that the ablest minds then, and the most experienced diplomatists, had entire confidence that such a cession as is now before us could be accepted with propriety, and vindicated before the morality, religion, and law of the whole civilized world.

The only other differences material to the argument are, that in 1825, Mexico had been recognised by not half so many other nations as Texas has now, and had maintained her independence for only about half as long a period; and that the revolution in Mexico was then progressing, not in all respects finished—her independence unsettled, not firm—her soil invaded and occupied by her enemy, not free from hostile feet—her laws despotic, not liberal—her people agitated by internal broils and factions, not united or peaceful; and Santa Anna's government much like what Bolivar considered his in Peru—not settled, but a camp; for (said he) "*my administration can only be called a campaign.*" *A fortiori*, then, can Texas cede now *de jure*, if Mexico could then. But another difference, still more potential in its influence rather than argumentative in force, is, I admit, that nobody then stood behind Spain to back her up; while now we see, or seem to see, the shadows of England's thousand ships of war in the wake of Mexico, and hostile to our success from other causes too deeply well known to need recapitulation.

What do gentlemen on the other side, as lawyers and publicists, hold as the true doctrine on this subject of *de facto* and *de jure* governments? Let us be plain and explicit with each other. Was not Cromwell's Protectorate, after established and recognised by other powers, a *de jure* as well as *de facto* government in respect to them? And could he not legally have ceded territory, as well as received cessions, until the Stewarts and their partisans renounced their claims? Did foreign powers treat with him or with the exiled family? So with Napoleon: was he not *de jure* as well as *de facto* emperor, as to the rest of the world, until the Bourbons and their partisans should recognise him? Was he acknowledged and treated with, or Louis the 18th in banishment? Neither he nor Cromwell was ever able to transfer territory and impose obligations on either England or France, by the doctrines on the other side, though all history and national law have settled the fact the other way. Some doubted the *de jure* right of Don Miguel, when in power *de facto*, and others that of Joseph Bonaparte in Spain, and even of Louis Philippe, now in France; but were they, and are they not all, regarded as *de jure* to make and receive cessions while in power, and acknowledged by other nations, however soon most of them, as well as Cromwell and Bonaparte, became dethroned?

But the senator from Massachusetts says there are three stages in reaching *de jure* power. First, a revolution; second, a recognition by others; and thirdly, an acknowledgment by the old authorities, or an utter abandonment by them of their claims. But neither such acknowledgment nor such abandonment took place by the Stewarts as to Cromwell, or the Bourbons as to Bonaparte; and yet their acts have *de jure* bound both England and France as to all other nations.

It is just so as to a revolution like Holland, Mexico, or the United States, or in one view Texas; separating a portion from the old government, and

forming of it a new one, and declaring its independence. Does nothing but the acknowledgment of the parent power, or an utter abandonment of its claims, enable the separated and independent portion to perform *de jure* acts as a nation, and bind its people and acquire rights for them of the rest of the world, as if a *de jure* government? Certainly. Certainly Holland, Mexico, and the United States, all, as well as Texas, have claimed to be *de jure* long before such acknowledgment or abandonment. Holland dated her independence seventy years before Spain recognised it.

Our independence dates from 1776, and not its recognition by England in 1783. So that of Mexico, from 1821 and not 1836, its recognition by Spain. So Belgium, from 1830 and not afterwards, when recognised by Holland. And so does Texas from 1836, and not any future period, when Mexico may admit it.

All of them have acted on such a claim before a recognition by the parent government as right; and our assumed power to resist oppression and establish new forms of government, without the consent of our oppressors, is mere vapor, and the American system baseless, if that assent, express or implied, is necessary to make our acts as to the rest of mankind *de jure*. Popular governments are never inclined to such nice distinctions, especially when these are unfriendly to popular rights. But I admit that the recognition of a new government, or the second stage in the gentleman's growth to a *de jure* condition, does not require other nations to go farther unless they please, and depart from a neutral position, or by any act, not required by public duty, become exposed to actual war; and that it has been customary with other nations, including ourselves, not to go any farther.—(4 State Papers, 846, 848.) But this grows out of the absence of any *motive* usually to go farther, and out of the pendency of a belligerent State between the old and new nation, in which we might become uselessly involved; and not from the fact that the new nation is not, *de jure* as well as *de facto* a sovereign power as to all other nations, and as such, competent *de jure* to do all which other belligerents may. Herein lies the error or fallacy of the reasoning on the other side. Martin's Law of Nations, p. 77, substantially confirms these views, by holding that if a government is established *de facto*, foreign powers have no right to say it is not one *de jure*.

A recognition of independence of another power, standing alone, obliges our courts to treat them so, and to give them and their citizens all rights of property and jurisdiction, and sovereignty, as in any other case. It is *de jure* as well as *de facto*, in the most critical and solemn forum of another nation.—(1 Kent, 25.)

Yet some senators, after all, seem to think it but "*an armed insurrection,*" or, as Russia denominated the independence of Mexico and South America, but "*criminal combinations*" of seditious subjects against their legitimate kings. But it is neither the American side of the question, nor that espoused by Mr. Webster himself.

"Mexico (says he) may have chosen to consider, and may still choose to consider, Texas as having been, at all times, since 1836, and as still continuing, a rebellious province; but the world has been obliged to take a very different view of the matter.

"And it must be added that the constitution, public treaties, and the laws, oblige the President to regard Texas as an independent State, and its territory as no part of the territory of Mexico."—(See Letter of July, 1842)

Nor is this merely theoretical. On two occasions we have practically recognised the power of the *de facto* governments on the west of us to be *de jure*, so as to make permanent compacts with us concerning the boundaries of their territory, long before they were acknowledged as sovereign by the parent country.

Thus, 12th January, 1828, we completed with Mexico a treaty regulating the limit of the territory contiguous to us, without asking the consent of Spain, though she then made urgent claim to Mexico, though the latter had been independent but seven years, and though her separate sovereignty had not then been acknowledged by Spain, and was not till 1836.

So, again, in 1838, April 25, we made a similar treaty of limits with Texas, as to her territory, without consulting Mexico, and when her *de jure* rights were as much in question as now. Some have asked if the right to cede was clear in 1837 as well as now, why the proposal then was not accepted? Simply, because the danger of war was then greater, and the hope of permanent independence was less.

The character and prospects of the war with Mexico in 1837 were very different from the condition of things now; and our exposure much greater then to be involved in difficulty of taking a cession so soon after one great invasion, and amidst the prospect of another, and without any long abandonment, as now, of a regular war on Texas for many years.

¶ The government of Texas was then, also, less settled; less firm; less likely to be permanent; less ripened; less recognised by all Christendom; and her claims less on the sympathies and interference of other friendly powers, by alliances or cessions, to put an end to barbarous maraudings, as well as oppression; and the authority of Mexico was less to enforce any pretensions over a territory so much longer independent, acknowledged by others, matured in her institutions, and, by the lapse of time, emancipated from her vain efforts at control. The statute of limitations bars most debts and claims in five or six years; and much more than that has elapsed here.

The whole real difficulty resolves itself into one, not of a right now to sell or cede on the one part, and we to buy on the other, but one as to the just and probable consequences of the transaction, considering the relations actually existing between Mexico and Texas, whether belligerent or not; and, if belligerent, whether justly so or not. It follows, then, that, if an independent sovereignty, Texas can cede rightfully her whole territory, as well as a part, and unite her government, as well as territory, with us, if she pleases. Such acts are done constantly in Europe, and here, both in republican confederacies, and monarchies, as before shown; and Vattel, as cited by the senator from Illinois, [Mr. BREESE,] recognises the principle fully.

Having discussed the right to receive and the right to cede Texas, the next question is, whether, as a duty, the treaty for the annexation ought not to be ratified. Are the reasons for it not ample, and our duty clear? The presumption certainly would be that, unless strong public objections exist, no nation would decline the offer of a large addition to its territory, population, and power. More especially does such a presumption arise, when the territory is contiguous, and convenient, if not necessary; has been long sought for under three or four different administrations; is governed by institutions

and laws similar to our own, and inhabited by a people, most of whom have a like origin, education and religion with ourselves; and concentrate their affections and wishes on a reunion with the great national family from which they sprang.

I am not one of those disposed to exaggerate the advantages of such an union to us; nor would I, on the contrary, scoff at the objections which are entertained—and honestly, without doubt—by many against it. But, in weighing the latter, I trust that we may be able to free ourselves from some prejudices and apprehensions suited to other forms of government rather than a representative confederacy; and be a little less local in policy and timid in action than if we were, as once, but three millions of people, and had confined our explorations to Lake Champlain and Cape Cod, rather than stretching west on our own soil to the Rocky mountains and the Pacific ocean.

Not forgetting the enlarged duties, as well as interests, that have devolved on us by our new position, let us examine, dispassionately, both the reasons for and the objections against the annexation proposed, as a moral and political duty. For, though the right to take and to make the cession may on both sides be clear, our duty may not require an assent to the ratification; and I am frank to say, that if I regarded the treaty as a mere pecuniary speculation, like the calculations of the senator from Rhode Island, [Mr. SIMMONS,] my hopes would not be great for profit or credit; or, if I looked at some of the reasons assigned for the measure in the correspondence, or the prudence of some of the agents employed, or the patriotism of some taking deep interest in the question. But these and many formal exceptions, seem scarcely suitable to the magnitude of the subject, and the high duties and national honor and interests which are at issue. One of the most prominent of these interests is the importance of Texas to the United States for security to the commerce of the West and Southwest, through the mouth of the Mississippi river. The freedom of that commerce was a topic which, as long ago as under the old confederation, agitated the whole country. It then introduced the first geographical division of parties between the South and the North; in which the latter, unfortunately, was quite as strenuous in resisting efforts and sacrifices to obtain that freedom, as it is now in resisting those to secure it, after having been obtained.

A few circumstances in the agitation of that age indicate strongly prejudices and contests not very unlike the present one.

Mr. Gorham, of Massachusetts, "avowed his opinion, that the shutting the Mississippi would be advantageous to the Atlantic States, and wished to see it shut."—(Madison Papers, p. 609.)

But Virginia extended over Kentucky, and claimed all the Northwest; while North Carolina also crossed the Alleghenies into Tennessee. Hence the South, at that early day, became the champions of western interests, no less than southern ones.

And though Mr. Aymer, apparently concurring with Gorham, "thought the encouragement of the western country was suicide on the part of the old States,"—(3 Madison papers, 1446 page;)—and though the vote of seven States was at first procured to proceed in the negotiations with Spain, without insisting on the free navigation of the Mississippi,—yet Mr. Jefferson wrote that the navigation of the Mississippi we must have—(1 Jefferson's Life, 433 page.) And Mr. Jay at last admitted our right



to it was good.—(4 Secret Journal, 451.) And the old Congress, before breaking up, in September, 1788, solemnly—

*Resolved*, That the free navigation of the river Mississippi is a clear and essential right of the United States, and that the same ought to be considered and supported as such.—(4 Secret Journal, 453, September 16, 1778.)

In the convention, while forming the constitution, Governor Morris frankly stated that “the fisheries,” and the “Mississippi,” security to them, were “the two great objects of the Union.”—(3 Madison Papers, 1523.)

The whole question, as a national one, was then settled. That was the embryo of the present crisis. The duty to secure became as imperative as had been the duty to obtain. A million and a half of square miles of territory, and what are now nine millions of people on the waters of the Mississippi and her tributaries, were foreseen, and were to be shielded in peace as in war; and tranquillity to their institutions, no less than safety to their property of every kind, were in advance solemnly guaranteed, and were never to be neglected. On this implied pledge your public lands have been sold there and settled.

It is not necessary, at this part of our inquiry, to detail all the steps since taken under the constitution to carry out faithfully one of those great objects of the Union connected with the Mississippi. Spain resisted and intrigued against all this. She was one of the last to accede to our independence, and to make any treaty of limits on the south as to the Florida line, from fear of our revolt proving an example contagious to her American colonies. It is said by one of our most learned historians, that a document exists, in which she was advised by her prime minister then to allow the whole of them to become independent, except her West India islands; and if that advice had been followed, which subsequent events, with the loss of millions of life and treasure, show to have been so wise, our present difficulties as to Texas would probably never have arisen. She pursued the opposite policy, and, after the peace of 1783, sought to push her claims even on the Mississippi, as high up as the Ohio river, and as far east as the Alleghanies. And after driving her from these pretensions, and then from Florida and Louisiana, her descendants hold on upon Texas with a death-gripe; and long after their ability to subdue it, or its value to them can make it an object in itself at all desirable. Both freedom and security to the navigation of that mighty river were once placed wholly within our grasp by the purchase of Louisiana.

I say this under the impression that the western boundary of Louisiana, on the Gulf of Mexico, truly extended to the Rio del Norte, as heretofore shown. Any border enemy was then flung off to a safe distance from the great outlet of near half the exports of the whole Union. New Orleans, the magnificent depot of the entire valley of the Mississippi, was then shielded from hostile surprise. Our trade with the West Indies and Europe, left more open and unannoyed, and the vast population on the western waters, now nine, and ere a century more to be ninety, millions of people—treble the numbers of either France or England, and more than treble their size in territory—was thus to be better protected, not only in their commerce, but in their lives and honor, from both the hostile tread and hostile machinations of an encroaching enemy. The security thus gained from the Indian scalping-knife was an additional

motive, and every cradle in the West witnessed a sounder sleep when the tomahawk could be removed farther off, and forts and greater distances were interposed between the log cabin and the savage torch.

I say that all this was accomplished with the boundary then obtained, and was in some degree lost without it, having, as we had, a foreign foe and foreign Indians so near us as the Sabine and the Red rivers. The great American captain of our age, with hundreds of others, have staked their skill and reputation on this; and hence that boundary, if once owned by us, should never have been parted with in 1819; or should be regained the first favorable and just opportunity, as has been since constantly attempted again and again, and as is now amicably within our power, by ratifying the treaty under consideration. We have already seen that it is no new idea that freedom of commerce is of little value without its security.

It is no new project that a line farther west than the Sabine is vital to its security, as well as important for protection in war, both against civilized and savage foes.

It is no new vagary, that when our fathers, in 1786, finally resolved on their rights to the free navigation of the Mississippi, they, also, in the same act, and by the same dauntless spirit, meant to enforce that right till successful, and to defend it, also, whence once acknowledged, as they afterwards did in many an Indian war, as well as on the bloody fields of New Orleans. It is no new principle of national law, that it then became the duty of the whole Union to look over the luxuriant regions west of the Alleghanies with the same affection and aid, and lavish on them a like deference and regard as on other parts of the Union; and that only half our obligations would be discharged in procuring a free navigation of the western waters, if not following it up with procuring security to that navigation and the immense interests connected with it. Such men as Messrs. Gorham and Clymer had, or ought to have, outgrown their more narrow views and sectional prejudices. The West and the Southwest were, by the tide of emigration, becoming bone of our bone and flesh of our flesh. In taking honest pains to give them protection as well as prosperity, the position of things has so changed, that the North and East, and Middle States, are in truth giving them to their own families, or the playmates of their youth. Even if selfishness prompted a different course in 1785, it will, if enlightened, concur in the course recommended in 1844. Let me particularize a single illustration of this among thousands of like cases scattered over the East, and, indeed, the whole Atlantic States.

On one of the hill-tops in the interior of New Hampshire, only two generations ago, dwelt a true, enterprising, industrious New England family. Are they still confined to their native mountains, and their interests and affections centred only there? On the contrary, sir, some of them are felling the forests in the mighty West; others plant in the sunny South; one is pushing his fortunes in the Empire State; another in Michigan; another in Mississippi; another on the rich soil of Alabama; and thus their homes and their fortunes, their anxieties and their patriotism, are limited only by their country's extent and welfare. The next generation will probably see some of their descendants in Oregon or Texas, and breathing the balmy air of the Columbia or Rio del Norte.

Such, sir, is the destiny of most of the people of this leading republic of the New World, presenting a form of government as novel and striking as was the continent itself, when discovered by Columbus, and developing a mission on earth by this branch of the Anglo-Saxon race, which, while the school-house and village church, side by side, mark their progress, will never be completed till they reach the Pacific. The mass of them are not, as they wander, either fanatics or bigots, but conform to all local institutions like peaceable citizens, till reason and experience are able to work salutary changes.

How much more is it our duty to receive these persons into the Union, when an opportunity offers, than the French of Louisiana, or the Spaniards of Florida! However worthy, in many respects, the character of the latter, yet all must see that the moral fitness, the education, habits, and religion of most of our kin in Texas, render them more suitable for an intimate alliance with us; and that their republican form of government makes the Union more appropriate than what we have already overcome in receiving those in Louisiana and Florida, educated under monarchies. Another important consequence of the purchase of Louisiana, was to give greater quiet to the commerce and people on all the tributaries of the Mississippi, as well as on its own great channel. But parting with Texas, we lost in the same treaty the sources of the Arkansas and Red rivers, as well as large tracts of land adjoining; and unless reannexed, a door is opened for constant annoyances and collisions between us and those higher up on the stream; and one cardinal benefit of the original purchase is entirely relinquished.

The treaty presents at the same moment a fortunate occasion to do that, as well as enforce better the guaranties of the constitution to promote "*domestic tranquillity*," in the South and Southwest, no less than the West and East. The property and domestic institutions of the former, however different from those at the North, were secured as amply under the old confederation as those of any other region; so are they by the present constitution; so are they by all our legislative and judicial decisions; and so must they continue to be, till the compromises of the constitution are wantonly violated, or the Union dissolved. Hence the losses or capture of their property in slaves have often been indemnified; their escape into other States has been redressed by a surrender of them; and the *domestic tranquillity* designed for all the States, as set out in the preamble of the constitution as one paramount object for its adoption, has again and again been sought to be secured, in times of excitement and peril, precisely as they are likely to be by the ratification of this treaty.

In 1811, the executive was empowered by Congress, after careful deliberation in secret, to take possession of Florida by force, with a view to preserve, more undisturbed, the domestic relations and quiet of the South. So, in 1810, Mr. Madison, of his own motion, took possession of the country east of Lake Pontchartrain to the river Perdido; for this, among other objects that need not be repeated. Though his course was then denounced as war by his opponents, yet Congress, by an act in 1812, ratified it, and annexed that tract to the State of Louisiana; and did this without asking the consent of Spain, or of the people of the United States, or of the inhabitants of the soil, and while many of them were in a state of actual revolt.

Again: In 1820, for the same, among other ob-

jects, when the treaty for the cession of the Floridas remained wrongfully unratified by Spain, Mr. Monroe recommended to Congress the immediate occupation of that country by virtue of legislation; and this was prevented only by the subsequent ratification and peaceful delivery of it, without rendering an actual resort to violence, on our part, necessary, after it had been proposed.

In short, the South stood shoulder to shoulder with us in the revolution with this property and these institutions. They came into the Union with them on equal terms; they have so remained for half a century, and so must they continue, till injustice or fanaticism or treason violate all the sacred compromises of all we hold dear.

The ratification of this treaty is also vastly important to our whole people in an industrial point of view. It gives to us enough additional territory for four or five large States, immediately contiguous; and some of them, by their location on the ocean, with fine bays and immense rivers, virtually Atlantic States in their habits and intercourse; an increase of near a third of a million in our population; and a near and rich outlet for the overflows of the other States; swelling, as they must in the next fifty years, to more than most of the kingdoms of Europe in their mighty masses. The annexation of Texas, in its influence on all the great branches of industry, is not merely a western or southern question, but one deeply interesting to every quarter of our common country—whether it promotes that industry by opening to agriculture more fertile soils and genial climates, or by forming a wider home market for manufactures, or by furnishing new articles of commerce, and new bays and rivers for the free navigation of western steamers, as well as coasting and freighting vessels from the East. Our independence of other countries by more lands, more fitted to sugar, fine cotton, and rice, and even coffee, would thus be greatly promoted.

On this and other kindred topics I shall not, on this occasion, enlarge; believing that a very strong case of duty to take the cession is made out, unless it be counterbalanced by some of the objections which have been urged in this debate.

I proceed at once to examine, in some detail, the most prominent of these objections:

The annexation is opposed by some, on the ground that it will make our territory too large; but experience has evinced that a representative republic can, with convenience and efficiency, extend over limits far wider than from the St. Croix to the Rio del Norte. Indeed, by the aid of railroads and steam, the Union, with Texas included, will be far more accessible in all its parts, either for business or government, than it was at the revolution with only thirteen States, and those all situated on the narrow belt of the eastern declivity of the Alleghanies. And this objection, if tenable, should have been urged, and prevailed, before we purchased either Louisiana or the Floridas.

How groundless, in connection with this, is the objection by some senators, [Messrs. MILLER and CHOATE,] that duty does not require assent to the cession, because it is the lust for "territorial aggrandizement" which now prompts us—when the whole we seek was not only obtained two generations ago, but was justified then by such men as Jefferson, Madison, and Monroe, and advocated since, and attempted to be regained, by such men as Adams, Clay, and Jackson? Or because, as imputed by the senator from New Jersey, we wish to seize Texas



now as "spoils of victory," "*as a conquest by treaty*," when, in truth, she comes into an equal union of rights and privileges, from friendship and mutual interest—from choice—and suited for it by education and principles, and gaining quite as much by it as we, or as Rhode Island gained by uniting with us after 1789, or as Scotland gained by her union with England near the commencement of the last century.

To repeat again some of my remarks on a former occasion:

"The annexation has been opposed as not a duty, because inclining the balance of political power in our system too much in favor of the West and South. But the same course of reasoning would strip us of all our great domain on the Pacific ocean—a country never to be surrendered while an American whaler visits its waters, or an American emigrant chooses to fish, hunt, or plant on the banks of the Columbia. It would also, from like apprehensions as to the balance of power in the North, prevent any future peaceable annexation of the Canadas, so ardently contemplated by our fathers from the commencement of the revolution; and it would heretofore have defeated the purchase of the Floridas by Mr. Monroe, and of Louisiana, including Texas, by Mr. Jefferson; and would not only cast censure on them and their venerable coadjutors, for thus deranging the balance of power then, but would add reproach on Messrs. Adams and Clay for attempting to regain Texas in 1825 and 1827, and on General Jackson and Mr. Van Buren for a like attempt in 1829; and, what is still worse, by this course of reasoning, for seeking, as was done in 1835 by General Jackson and Mr. Forsyth, to obtain a vast tract of additional country still farther south and west, from the forty-second degree of latitude to the thirty-seventh, and stretching towards the setting sun over that degree across the entire continent. But, in truth, the durable interests of the whole Union are believed to have been looked to on those occasions as now; and the theoretical balance of power, if adverted to at all, can never endanger the practical workings of our system, which will always produce greatest harmony when least influenced by any sectional jealousies or local prejudices; and which will always be most attractive, strongest, and most flourishing, where freest, unless liberty and progress are mere phantoms of the imagination."

More than all this, Texas, if added to the Union, may well be regarded, for ages if not forever, quite as much northern as western and southern in many of her principles and tastes. Her position on the ocean—her numerous and large rivers near—her culture of sugar and rice, as well as cotton—her easy intercourse with the West Indies and the North—make her an Atlantic State for most purposes, and will connect her people, in their intercourse and commerce, and views of political economy, very closely with the Atlantic portion of the Union; and perhaps more intimately with the northern parts of it than many now imagine.

"It is opposed by others on account of the badness of some of the reasons assigned for it; as if a good measure ought to be rejected because any one may please to urge some weak reasons for it. By others, because a few of its advocates are suspected of being interested in the question; as if that could impair the usefulness of the annexation itself, or was not always an incident to almost every question of great magnitude. And by others still, because the auspices under which the measure is now proposed

are disliked; as if the necessity or value of a gift or purchase depended upon the character of the agents employed.

It is resisted by many for the reason that slavery exists in Texas. That is an institution, to be sure, which most people, born at the North, are, like myself, averse to. But those who respect the constitution and the Union remember that it is an institution which our parent country, before the revolution, forced upon both the North and the South; which, after being more deeply interwoven through the social and political systems of the latter, the rest of the States did not hesitate to confederate with her in fighting the battles of independence; nor to counsel with her heroes, patriots, and statesmen, in forming the present constitution; nor to associate with them in carrying out its great destinies; nor in guarantying their property and rights in common with the rest, then and during the half century since, in peace and war, and in weal or woe.

However deprecated by many of us, we know that none can legally abolish the institution but those who possess it; and that while this has already been done since the revolution by nearly half of the old States, it may continue to be done by Texas herself, as well as others, sooner or later, when their sense of duty and safety may permit it, if left tranquilly to the exercise of their own rights. What effect the annexation of Texas will really have on this measure, seems to be doubted by some of its opponents, among whom the most distinguished thinks it will add more free than slave States. But however that may be, the friends of annexation believe that, while a rejection of it must leave the institution of slavery just as it is, without mitigation, the acceptance of it cannot add to the whole number of slaves now in Texas and the United States together; and, if dispersing that number over a wider space, will gradually tend to make their freedom less expensive and more easy in any one State; or, if concentrating them farther South than now, will render voluntary emancipation more northwardly still, speedier and safer. Whether such considerations have preponderated before in overcoming this objection with many of our most eminent friends of liberty and philanthropy, I know not; but certain it is, that it did not prevent Mr. Jefferson and his northern democratic friends from purchasing Louisiana, including Texas herself, in 1803; nor Florida from being bought by Messrs. Monroe and Adams in 1819; nor Texas again from being negotiated for by Messrs. Adams and Clay in 1825 and 1827; and by General Jackson and Mr. Van Buren in the summer of 1829; the decree of Mexico for abolishing slavery in her possessions not being issued till September 15, 1829." —(See 4 Blunt's Annual Register, p. 147.)

It did not prevent us from keeping Texas with all her slavery for sixteen years, and then exchanging her for another slave territory. Is it not safer to act with such men on a great national question? men of all parties, coincident on this single measure, notwithstanding the objection as to slavery? Mucho safer than to indulge rashly in a disregard of every precedent and principle adopted in respect to it during half a century.

International interferences, or encouragements to destroy the domestic or political institutions of each other, are alike mischievous, whether attempted by us against her church-and-state system, and monarchical government, or by England, or the world's convention, in sight of her Par-

liament against any of our institutions. Without going into details on this unpleasant topic, these fictitious complaints about us tend to plunge the world into a state of constant warfare, rather than promote durable peace and civilization.

Even the despot, Santa Anna, talks of keeping up hostilities against Texas, in order to put down domestic slavery there; and Ali Pacha in Egypt, while amidst all his tyrannies he has the address towards England to profess the emancipation of his slaves, renews yearly a frontier slave hunt to recruit his armies, navies, and household.

What is this objection, when made among ourselves so pertinaciously, but a violation of Washington's farewell injunction against encouraging sectional prejudices and sectional divisions; and of Jefferson's deprecations in the Missouri controversy, against the drawing of "a geographical line, coinciding with a marked principle, moral, and political;" and which, if countermanded, would, in his opinion, constantly sink deeper and deeper, and never be obliterated, except by disastrous results, which he did not wish to live long enough to witness:—(4 Jefferson's Life, 324 p.)

Declaring, as we have so often, that Cuba shall never be allowed to go into the possession of another power, I should like to know what is to be done with slavery there, if the island is ever occupied by us? And if becoming a territory or a State, on what principle is it to be so, except that applied to Louisiana, Florida, and therefore to Texas? Are we to have whites under our dominion not free? nor ever to be admitted into the Union on equal principles?

I will only add, in order to avoid misapprehension, that so far from feeling opposed to the termination of slavery by all legal, safe, and constitutional means, none could rejoice more heartily than myself to see it thus ended the world over; and among the whites, as well as blacks; among the disfranchised, the serfs and paupers of Europe, and even the dark Hindoos, as well as the sable sons of Africa; not confining my sympathies to color or name, but to real degradation among the whole human race, and to their relief, by introducing gradually a superior state of intelligence, religion, and rights, rather than by a rash crusade against law and order, and the public peace."

Others still object to the form of the cession, holding it to be insufficient, unless made by an act of Congress, and hence it is not our duty to take the cession by this treaty. Various technicalities as to the power of treaties have been urged against the present proceeding—such as the want of existing parties till the act is completed, and the absence of legislative as well as executive sanction to the union of the two countries. But the people of Texas still continue a separate, independent government, competent to contract and hold their rights, not only till the treaty is ratified by our government and their own, but till an act of Congress, there and here, passes to enforce many provisions, which, in their nature, as in many other treaties, are imperfect and inoperative till that takes place. And if the sanction of their people to a union like this, given at the same time their constitution was adopted, by an almost unanimous vote, was supposed to be obsolete, I should think it prudent to take their opinion again before the proceedings are deemed complete. Then, and not till all this is concluded, an actual delivery of possession takes place, and is necessary to the validity of the cession.—(1 Kent's

Com., 177.) Nor even after that is Texas extinguished, as some have argued; she is still in political being, as a territory of the Union, and with full claims to enforce her rights, in due time and on equal terms, to become a State.

An act of legislation in the form of a compact is no stronger than a law of Congress carrying the treaty into effect by establishing a territorial government, and making the proper appropriations and provisions. If these are done, then our people have assented through their proper and accustomed agents for such purposes, and Congress has assented, as well as Texas, both its government and people. We shall stand towards each other in all these respects, and shall continue to as we and our new separate States and territories do. The matter has thus duly commenced with a treaty. We take by it one step. A treaty, too, is the usual instrument for making agreements with foreign powers. It is defined to be "a compact of accommodation relating to public affairs." And if enforced by an act of Congress carrying its provisions into effect, it will have all the form and substance in its course to completion, which any legislative compact of union between countries before in domestic relations could possess in England or here.

Some confusion has arisen on this point, I apprehend, from not adverting to the circumstance that, in this case, the ceded territory and its government are foreign, and not like those using legislation alone, already in some degree connected as domestic members of the same sovereign—like Scotland and Ireland. And so far from Texas being thus conquered, or annihilated, or degraded, or defrauded, she is elevated to our own platform; her privileges gained are quite equal to ours; her star is placed in our galaxy, rather than extinguished; and the union is alike honorable and advantageous to all concerned.

Another new objection has been pressed, that the cession contains too much land, and is thus not a duty, but a wrong, and exposes us to unavoidable collisions with other powers. But, unfortunately for this ground, the cession does not describe any particular quantity of land, or extend the limits of Texas to any specified boundaries whatever. It merely, in speaking of its extent, says, "all its territories." We can hold, then, or claim, only "all its territories," its true and rightful boundaries, be they more or less. So was it with the purchase of Louisiana, without any other limitations; and Bonaparte declined to make any specific ones, when asked, (see Marbois's History of Louisiana,) but for a reason directly the reverse to that which existed here, "the boundary being left without specification" here, in order to avoid difficulty.—(See the Texian documents.)

The better opinion certainly is that the old Texas run west to the mouth of the Rio del Norte on the Gulf, though Mr. Jefferson, as a compromise, was willing to stop at the Nueces or Colorado, and even the Gaudaloupe; and General Jackson, in 1829, proposed to buy only to the centre of the desert between the Nueces and the Rio del Norte; but in 1835 he wished to go quite to the latter, as did Messrs. Adams and Clay in 1825 and 1827.—(Doc. House of Reps., Sept. 1837, on Texas, 2 Foote's History, 393.)

Most people considered the line to run north on that river only to the mountains, though the legislature of Texas, by a law, have claimed to run to its source. But Texas, by a mere law, could acquire no

title beyond what she conquered from Mexico, and actually governed. Hence, though her law includes more than the ancient Texas, she could hold and convey only that; or, at the uttermost, only what she exercised clear jurisdiction over. As to that, there is, and can be no eventual contest; and the deed of cession, like one by an individual at common law, would practically pass no more than was owned; and under it the grantee would get no more if he could, and could not if he would.\*

Another reason assigned why it is not our duty to accept this cession is, that the Senate, by ratifying the treaty, do, in conjunction with the President, declare war; when, by the constitution, it cannot be declared without the consent of the whole of Congress. This entirely falls to the ground if my views are right, that all treaties like this are inoperative till a law of Congress passes to carry them into effect. For then, before its validity is perfected so as to produce war, the whole of Congress assents. Even in England, an act of Parliament is necessary to give effect to some treaties, as was held here in Jay's treaty in 1796; and in other treaties after the late war—as well as in the treaties for purchasing Louisiana and the Floridas. Whenever money is to be paid, or officers appointed, and a territorial government organized, an act of Congress is indispensable to complete its operations. Hence, without going into the question, how wide a range of discretion exists in passing or not passing such an act, war is not declared, nor waged, till Congress chooses to do it by a subsequent act. If, before that, it is commenced against us wrongfully, as it may be on this or any other occasion, Congress still retains the power to repel it or negotiate. On the very theory upon the other side, the act of the President and Senate alone, so far as regards war, is beyond its authority, and negatory by the constitution. How, then, can the President and Senate alone make or wage a war?

\* The law of Texas, including in her claim more than she actually occupied, doubtless originated very innocently in the following section of the compact by Santa Anna with President Burnet in 1836, agreeing solemnly that Texas should extend not only to the mouth of the Rio del Norte, but thence to its source:

"5th. That the following be, and the same are hereby, established and made the lines of demarcation between the two republics of Mexico and of Texas, to wit: The line shall commence at the estuary or mouth of the Rio Grande, on the western bank thereof, and shall pursue the same bank up the said river, to the point where the river assumes the name of the Rio Bravo del Norte, from which point it shall proceed on the said western bank to the head waters, or source of said river—it being understood that the terms Rio Grande and Rio Bravo del Norte apply to and designate one and the same stream. From the source of said river, the principal head branch being taken to ascertain that source, a due north line shall be run until it shall intersect the boundary line established and described in the treaty negotiated by and between the government of Spain and the government of the United States of the North: which line was subsequently transferred to and adopted in the treaty of limits made between the government of Mexico and that of the United States; and from this point of intersection the line shall be the same as was made and established in and by the several treaties above-mentioned, to continue to the mouth or outlet of the Sabine river, and from thence to the Gulf of Mexico."—(See 2 Foot's His., 314, compact between Texas and Santa Anna in 1836.)

And some articles in the newspapers, very ably written, in 1829, had also insisted that the country ceded and lost by us in 1819, contained 235,000,000 of acres. Whereas the whole land claimed by Texas, rightfully or wrongfully, and in actual possession or not, and whether too much or too little, is only 203,320,000 acres according to the official map before us; and that number of acres claimed in 1829, cannot be obtained without going to the utmost limit of the boundaries since laid down on this map, on the South and North and East as well as West.

2

and how ill-grounded are the fears that, by ratifying the treaty, the Senate compromises the country in hostilities?

The Senate and President can form a treaty of alliance; but the country cannot, and will not, thereby be plunged into a war, unless Congress assent. So, on the other hand, they form a treaty of neutrality or of peace, and yet the country will not and cannot be retained in a state of peace, if Congress pleases to declare war.—(See 4 Jefferson's Life, page 498.)

At the utmost, in this case, the President and the Senate cannot adopt any thing which does not exist; and, therefore, as only a liability exists to war, they can adopt but a liability, and not war itself; and that liability is neither just in itself, nor countenanced by the rest of the world. The utmost which the ratification accomplishes, even were the treaty operative without an act of Congress, is to adapt or expose ourselves to the state of things which exists now between Mexico and Texas.

We will soon endeavor to show that this state is now but constructive war; that its actual renewal would be unjust; that the conducting of it, if as formerly, is contrary to the law of nations; and hence, so far from assuming what is either dangerous or just, we shall perform a national duty to interfere in this matter, by negotiation, and hazard something if necessary, to prevent a recurrence of more such bloodshed, as well as restore tranquillity and durable peace to this quarter of the globe.

Some have magnified the danger of war, and even proclaimed it as war itself, that the President has ordered a portion of our army and navy to the points which will be most exposed in case Mexico commences threatened hostilities against us, or the renewal of old ones against Texas.

But these movements are all with a view to the preservation of peace, rather than the waging of war. They are precautionary and prudent, rather than belligerent. The officers are in all cases expressly forbidden to engage in hostilities, but required merely to watch and report facts. The same was done in 1829, by General Jackson.—(See 2 Kennedy, 242, 265, and 276.) And in 1837, by Mr. Van Buren, and at the East on the disputed territory, as well as in Texas beyond the Sabine. The chief difference is, that in this case, more forbearance and caution appear, and not a single line of boundary is allowed to be crossed, nor a gun fired, without authority of Congress, nor a single dollar of new expense incurred.—(See the official document.) In 1810 we had the first edition of this cry of war, for marching troops. That was a much stronger case; for Mr. Madison then marched troops into a disputed territory, and used force to get possession of it. He was met with the same complaint of war and assumption of the powers of the two Houses.

Mr. Horsey, one of the ablest federalists, exclaimed:

"Sir, what is the nature and import of this proclamation? In my humble conception—both legislative and war—war, because it directs the occupation of this territory by a military force. The regular troops of the United States are ordered to march, and aid the militia if necessary.

"Legislative, by annexing it to Orleans territory."—(See Nat. Int. 1st January, 1810.)

But no impeachment was ever presumed on for that or other supposed misbehavior, except that James Madison, the great expounder and practitioner, under the constitution in our most trying times, was, by Cyrus King, denounced as, in his

DUPLICATE



estimation, deserving a halter; and by Josiah Quincy, who, I believe, obtained one vote, *solitary and alone*, in favor of his impeachment.

The use of the army and navy by the executive, in time of peace, may often expose the country to war; but it is not, and cannot be, a declaration of war on our part, as that can only be made by Congress. True, in 1831, the administration sent a part of the navy around the globe, and attacked and burnt a town at the antipodes; but it was not a declaration of war; on the contrary, it was provident protection in peace of our citizens and their commerce. And though it might have been deemed by others a cause of war on us, and a matter of impeachment here, as was threatened, yet it was, in truth, none the less right and justifiable, both under our own constitution and the laws of nations. I advised it then, and gave the order, and would do it again, under like circumstances.

The next and the most alarming objection, with many, to its being our duty to take the cession of Texas is, that we are thus assuming an actual war, or are in danger of becoming involved in actual hostilities. If this were the truth, it would then surely behoove us not to risk these without counting the cost, or finding, after careful examination, that our duty to take the cession was, under all the circumstances, paramount to all such dangers.

Though war be undoubtedly a great calamity, standing by itself, yet it is often much preferable to dishonor; is often expedient for self-preservation; and, at times, is demanded by the highest obligations of national honor and duty.

Let us, then, first see whether the danger to which we are exposed, by taking the cession, has heretofore been deemed sufficient to prevent our taking it. In 1825, Spain and Mexico were at war, and the former in actual possession of the most important fortress of the country; and in 1829 poured her troops into Mexico in *flagrante bello*. And that state of things was even urged by our government as an additional inducement to Mexico alone to cede Texas, rather than regarding it, as would seem now, an insuperable obstacle to a proper cession without the consent of both belligerents, or without our becoming involved in hostilities, which it may not be our duty to risk.

Some seem to doubt the existence of as much war then as now, and would thus break the great and acknowledged force of these two cases, as precedents directly in point.

But how are the recorded facts?

Beside many statements in the public press, cited by the senator from Mississippi, showing the actual war then, there are many other proofs.

Mr. Clay May 10th, 1825, while negotiating, exhorted Russia to make Spain acknowledge the independence of her colonies, and restore peace, instead of the war then known to be raging. He threatened that otherwise the provinces should send privateers on the coast of Spain, and capture Cuba, "towards terminating the existing contest between Spain and her colonies."—(Blount, 83 p.) He urged the Emperor to lend his aid towards the "*conclusion of the war between Spain and her colonies*."—(Letter to Middleton, 89 p., Aug. 27, 1825.) The castle of Ulloa—the *key of Mexico*—was then in possession of Spain; and yet no forcetance nor objections were then entertained on account of the claims, interests, or complaints of Spain.

Further than this: how stood the case in 1829? Then, our Secretary speaks of the particularly threatening

attitude of Spain, and the "policy to part with a portion to obtain means to defend the residue."—(p. 15, House Doc., No. 40, Sept., 1837.) The President not only admitted the existence of actual war with Spain in September, 1829, (Niles's Register, 71,) but our government, beside the above argument, founded on the existence of hostilities, despatched a naval force to the coast of Mexico to protect our commerce during the war. And the Mexican Secretary of State subsequently, in a public announcement, made it a topic of complaint against the United States, that our administration, under the distractions and perils of their conflict with Spain, or, to use his own words, while engaged "in repelling the Spanish invasion, had pushed for a cession of Mexico, under the hope that Mexico would then part with Texas more readily."—(See the document in Adams's speech in National Intelligencer of 19th July, 1838.) Yet no apprehension of being involved in a war then obstructed our negotiations, and was deemed sufficient to obviate our duty to obtain the cession. Nor was any apprehension then felt that our duty was violated by taking the cession from Mexico during an actual war with Spain, and eight to ten years before the latter made any recognition of the independence of the former. Nothing was communicated to Spain asking her consent; no offer was made to her of compensation; nothing deprecated as to her hostility.

And who ever then heard, as now, that a purchase from Mexico would be perfidious towards unoffending Spain? a breach of the solemnity of our treaties with her? or an exposure of ourselves to the condemnation of the civilized world, as grasping and ambitious?

But aside from these precedents, showing the sense of duty which urged onward to this acquisition both Messrs. Adams and Clay, as well as Jackson and Van Buren, notwithstanding the actual war then raging, it may be well to ascertain whether any actual war exists now, as well as whether one has of late been waged in a manner to justify its longer continuance, either against Texas, or any power that may become allied to her. All the categorical assertions, that an actual war has been carried on by Mexico, for eight years past, and with great vigor and success, (Mr. Choate,) and in a humane form beyond even that pursued usually by either England or France, are disproved not only by the ministers of Texas, entitled by their stations to full credence, but by Mr. Webster himself, in his grave official character as Secretary of State.

Let us read what he, as well as they, state on the point of an actual war during that eight years:

"From the time of the battle of San Jacinto, in April, 1836, to the present moment, Texas had exhibited the same external signs of national independence as Mexico herself, and with quite as much stability of government. Practically free and independent, acknowledged as a political sovereignty by the principal powers of the world, no hostile foot finding rest within her territory for six or seven years, and Mexico herself refraining for all that period from any further attempt to re-establish her own authority over that territory."—(Webster, July 1, 1842, to Thompson.)

Yet, in the face of this, the senator from Massachusetts [Mr. Choate] speaks of the "tremendous vigor with which Mexico had carried on the war;" and "her effective success;" and her "armed occupation" of Texas.

Again, Mr. Webster says, after the battle of St. Jacinto, "*The war was from that time at an end.*"

In another letter, (of April 5, 1842, Webster to

Thompson, 4th Senate Document, No. 325, in 1842, page 13,) he says:

"No effort for the subjugation of Texas has been made by Mexico from the time of the battle of St. Jacinto, on the 21st April, 1836, until the commencement of the present year; and during all this period Texas has maintained an independent government, carried on commerce, and made treaties with nations in both hemispheres, and kept aloof all attempts at invading her territory."

Again Mr. Webster says to Mr. Thomson, 31st July, 1843:

"It is contemplated by this government to REMONSTRATE in a *MOLE FORMAL MANNER* with Mexico at a period not far distant, unless she shall consent to make peace with Texas, or shall show the disposition and ability to prosecute the war with respectable forces."

Finally, 22d June, 1842, Mr. Webster to Thompson, says: "Nothing is more probable than that the *renewal* of the war between Mexico and Texas, would," &c.

He states "the President's clear and strong conviction that the war is not only *useless*, but *hopeless*, without *attainable* object; injurious to both parties, and likely to be, in its continuance, *annoying* and vexatious to other commercial nations."

This is quite enough from one Secretary, and he the senator's political friend, to show the impotent, and irregular, and censurable character of the hostilities as designed for any reconquest. Similar were the views of his successor.

Mr. Upshur to Mr. Thompson, 27th July, 1843, says, also, that "the present hostilities are not regular and hardly civilized; tend only to harass and not subdue. Mexico should assert and maintain her supremacy, or generously abandon the claim."

"She has a right to reconquer, but her right must be *enforced seasonably*, or be abandoned for the peace and commerce of the rest of the world."

The views of the Texian authorities correspond with this: "Never, since eighteen hundred and thirty-six, has Mexico attempted anything of the character of a general invasion of Texas, or conducted the war upon any plan calculated to test the superiority of the two nations upon the field of battle, and bring the war to a close by the arbitrament of arms." —(Confidential document, 12th and 15th pp.)

How justly, then, can it be said:

"Scarce a hostile foot, even from Mexico, profaned her soil, from 1836, when Santa Anna publicly stipulated with her to end the war, to 1842."

This, if no more, was to be expected, after his pledges and compacts. The express engagement made by Santa Anna, May 18th, 1836, to put an end to the war, and obtain the recognition of her independence by Mexico, is at length in Niles's Register, 414 p., for Aug., 1836.—(2 Kennedy, 233.) See his reasons for it, in his letter to Houston and conversation here.—(Niles's Register, 9th, and 23 Ap., 1842.) The compliance with it since, so far as regards any regular war, or one in any degree competent or designed for a reconquest, is the only apology he can have for not surrendering himself and his troops again to Texas, for a failure by Mexico to fulfil the rest of it. Honor and morality forbid his conduct in not returning, unless he intended virtually to end the war, in pursuance of his engagement.

The declarations made by him in this city confess all this. So those made after his reaching home, and when free from any suspicion of fear or duress, confirm the same aspect of the case. In a letter which he addressed to General Jackson, dated at Columbia, Texas, July 4, 1836, he says:

"When I offered to treat with this government, I was *convinced* that it was *useless* for Mexico to continue the war. I have acquired exact information respecting the country, which I did not possess four months ago. I have too much zeal for the interests of my country to wish for anything which is not compatible with them. Being always ready to sacrifice myself for its glory and advantage, I never would have hesitated to subject myself to torments or death, rather than consent to any compromise, if Mexico could thereby obtain the slightest benefit. I am firmly convinced that it is proper to terminate this question by political negotiation."

During the eight years past, and especially within the last two, at times, there have been a paper war and marauding; and, to put an end to the irregular and occasional incursions that have sometimes happened during that period, an armistice has been proposed by Mexico, which, being exceptionable in its terms, is reported never to have been ratified by Texas. So that the question (whether it may be aided by an armistice, which admits a temporary peace, and, in the case between Holland and Spain, lasted twelve years, and was succeeded by a durable peace; or may be embarrassed by it, as some suppose, by its implying the existence of a previous war) is probably free from this difficulty; and if Texas is taken by us now, we take with her neither an existing war nor probably any existing armistice.

The documents communicated to us lately, show that the armistice, so much talked of, has never been ratified by the two governments; and it is evident that no regular war existed, to be suspended by an armistice.

The Texian ministers, speaking of the supposed armistice, say:

"The negotiations having thus terminated, and this agreement being held to be null and void, there is at present no subsisting arrangement of any character between Mexico and Texas."

Our own minister at Mexico entertains the same views:

"MEXICO, Feb. 2, 1844.

"I am informed that the negotiation with Texas for peace, is not only broken off, but that the armistice has also been suspended. You will remember that, from the beginning of this matter, I expressed the opinion that nothing would come of it. It was only a device on the part of Santa Anna to relieve him from the difficulty in which he had involved himself by his threats and promises of reconquering Texas, which he knows perfectly well is impossible. There may be other marauding forays, like that of General Well, retreating more rapidly than they advanced. But as to any regular and reasonably sufficient force invading the country, the thing is impossible, and will not be attempted. They cannot raise money to support such an army two months.

"My opinion is, notwithstanding all their vamping and gasconade, that the most agreeable thing to Santa Anna would be an authoritative interposition of our government to put an end to the war, as he would then say that we were too strong for them to contend with."

An armistice, when made by governments, and not military men as this was, acknowledges the separate national existence and rights of each, and thus virtually surrenders the point in controversy. Such was that with Holland and Spain.

To make any state of things a war for the purpose of reconquest, it must be with a will and a force adequate to the object, or apparently so. It must be something beside proclamations, and the occasional murder of non-combatants and piratical plundering, it must be public force, and not, as Cowper says, words, or "a *duel in the form of a debate*."

Grotius (book 1, chapter 1, page 38) defines war, from Cicero, to be "a dispute by force." And though custom may call the state or disposition to



use force a war, yet common sense seems to look to the act of force as alone real war.

But the entire cessation of hostilities from 1836 to 1842, and the occasional, as well as contemptible incursions since, indicate the abandonment of any war of reconquest, and are not that species of hostilities, which, in their character, keep up a claim of right, or can be recognised on any principles of national law, as precluding other nations to consider Texas, both *de jure* and *de facto*, a sovereign State. Much less are we likely, by a union with Texas, to be involved in actual hostilities, when none are waging, when none could, probably, avail anything of good to Mexico, and when none have occurred at all adequate to reconquest for near half a generation.

If, as the senator from Missouri correctly stated on the 1st instant, Mexico is utterly unable to conquer Texas, (the opposite opinion from that expressed by the senator from Massachusetts,) if an invader would, by her own resources, be driven like chaff before the whirlwind, and a defeat of him be deemed a mere holiday, pray inform me what kind of a petty, wretched, uncertain war do we risk by uniting with Texas? and how little it should stand in the way of our high duty to take the cession? What kind of a contemptible war do we assume or risk, either in this way, or by presenting any constitutional aid if invaded, while the ratification of the treaty is pending? Who believes any such invasion will be attempted, now or hereafter, when so disastrous will be the consequences to Mexico—even by Texas alone?

The danger in the path of our action is, not only uncertain, remote, and small, but it is of a mere constructive war, that has been prosecuted without just cause, and which both France and England, as well as ourselves, have informed her ought not to be prosecuted longer. England, since 1840, has been under obligations by a treaty of mediation with Texas to procure an abandonment of the claims of Mexico. Mr. Pakenham, April 19th, 1844, in confidential Doc., No. 8, says:

"It is a well-known fact that her (Great Britain's) most zealous exertions have been directed towards the completion of that independence by obtaining its acknowledgement at the hands of the only power by which it was seriously disputed."

But why such zealous exertions for Texas, if she was not right? Again Lord Aberdeen says:

"We (Great Britain) put ourselves forward in pressing the government of Mexico to acknowledge Texas as independent."—(Letter 20th December, 1843, ditto 40th page.)

Why press Mexico to abandon her cause, if it was correct?

If Mexico, then, will not abandon any thought of further hostilities—if she will not listen to the advice of foreign power to acknowledge Texian independence—if she persists obstinately in disturbing the peace and commerce of the rest of the world in the Gulf of Mexico and its neighborhood—if she chooses to rely on the *logic of kings*, the *ultima ratio regum*, rather than the judgment of the chief powers of the civilized world,—it will not be our fault, but hers, if any further hostilities ensue. The fortune of war must then be ours, and craven, indeed, would be our spirit to flinch from it.

But if we turn a moment to the history of the past, we shall find that nations generally have not made cessions in a time of war by the party in full possession—a ground of war upon the purchaser; and much less have they been accustomed to do it after such intervals of hostility—such protracted feebleness in the contest—such numerous and high

remonstrances against it from the rest of the world as exist in the present case. I will select only three or four cases.

In 1685, after several years of revolution in Holland against Spain, and only five years after the declaration of independence by the former, Queen Elizabeth, by a treaty, loaned money and troops to aid her, and took a cession in mortgage of several towns and fortresses to indemnify her. This was sixty-three years before their independence was acknowledged by Spain: and it was five years after that before Spain chose to involve her in the general war, on this or any other account.—(See 2 Davis's History of Holland, 175 and 235.)

Again, in 1658, Dunkirk was conquered from Spain by France and England, and given to the latter. In 1662, October 17, it was ceded by Charles II to Louis XIV by treaty, and by the 8th article it was stipulated, that if the King of Spain, from whom it was taken "by right of arms," should try to regain it in two years, England was to furnish "a considerable fleet" to defend it, but none after two years.—(1 Collection of Treaties, p. 121.) And did the aid ever become necessary?

Again, in 1712, Denmark, in a war with Sweden, took the Duchy of Bremen and Verden from the latter, who had held it under a treaty since 1648, and sold and ceded it to the Elector of Hanover, who was then George I of England, and who held it without Sweden ever presuming to make it a cause of war with Hanover or England.—(2 vol. Puffendorf's Summary, p. 202, 246, 256-8.)

Lastly, and directly in point, Guatemala was acknowledged independent in 1824, under the name of "United Provinces of Central America." Chiapas, which had before belonged to Guatemala, chose to act independent of Guatemala, and against her consent, at length offered to unite with Mexico, and was admitted, and remains there. This was in 1835.—(See p. 113 and 117, 2 Ken.) So in private life, and by the common law, a party in possession of land can convey and deliver it properly, without imputations of fraud and conspiracy, as lavished here, and outstanding claims by third persons must be abandoned, or peacefully prosecuted against the new occupant and trespasser. In Martin, b. 1, c. 1, and b. 8, c. 5, the true doctrine is laid down, that a State is free and sovereign, if it governs itself and acknowledges no superior but God. Then others may not only acknowledge such a State as sovereign and independent, but take grants of territory from it, and even aid it, if its cause is just, and it is in possession. The opposite party will usually complain; and, unless policy forbid, will at times seek to recover the land, or retaliate; but seldom, if ever, in protracted troubles like this. If Texas had injured us, and refused redress, since her independence was recognised in 1837, could we not rightfully have made war on her, and, if conquering, hold her territory, if possible, as against Mexico and the whole world? Surely. And this settles the whole question of the *de jure* right of cession or transfer; for conquest is only one mode of transfer, rightfully, by the law of nations. We have obtained indemnity from her by one treaty since 1836, and established even boundaries with her by another. But how this has been done with her rightfully, and not Mexico, if Mexico is the *de jure* government, it would be difficult to explain.

Regarding the territory of Texas as conquered by its people from Mexico, which some do, then their sovereignty to it is completed by the full assen-

of its population; and their cession is valid by a like assent of them as well as their government.—(2 Burlamaque, p. 309.)

In war, the title of all property seized on either side is considered to be in the actual possession; and, if afterwards sold to a third person, or third power, the title passes, and it passes beyond recovery, if of movables; and if of immovables, cannot be regained, unless by consent, or unless the original owner chooses to risk for it war, (1 Burlamaque, 297,) and succeeds in the war.—(2 Wheaton, 289.)

Nor is it any breach of treaty with Mexico to take such a cession, in such a case. It is the right and usage of nations to do it. They must deal with Texas as a *de jure* as well as *de facto* government—as of full age, and possessing in the family of nations equal rights and power with other nations. The doctrine *jus postliminii* does not apply unless the original owner gets into possession, (2 Wheaton, 112;) and a “modification of the rule may be required in practical application” even then, if a civil revolution is mixed up.—(Grotius, b. 3, ch. 6, sec. 4.) But there is no breach of treaty, there being no guaranty of territory in any of our treaties with Mexico, though once our ministers were instructed to make such a guaranty to Spain of her territories west of the Mississippi. Yet it is competent for Mexico to make the cession and union of Texas with us, until her claims are relinquished, a cause of hostilities towards us; though, under all the circumstances of the right of the contest being in Texas, as before explained, it is not a just cause. Where a revolt has occurred, and its independence been acknowledged, third powers may treat it, when in possession of separate sovereignty, as independent in all respects; and if former masters complain, it is without cause. So it is competent to aid such power while in “possession of independence,” as we must if uniting with Texas; but if the secession be unjust, the old masters may complain, and resort to force, “as policy or anger may prompt,” but not if secession be just.—(Martin’s Law of Nations, p. 80, b. 3, ch. 2, sec. 10.)

But though exposed in such case to some belligerent hazards, they are usually encountered when duty prompts; and much more readily if the hazards, as here, are remote, doubtful; founded, as here, in injustice, on the part of the ancient claimant, and prosecuted in a barbarous and unjustifiable manner.

Let me not be misunderstood. In one aspect of the case, as all the territory of Texas is ceded, and her government united with ours, we may be held jointly responsible for all that Texas is now liable to severally.

I am free to admit that, though actual hostilities do not now exist, and of course will not now be assumed by us if uniting with Texas, yet Mexico can obstinately persist in claiming her allegiance forever—may refuse to recognise her independence for centuries, and threaten everlasting war. But before actually recommencing hostilities, she will be likely to look a little to public opinion and her true policy, under all the facts of the case, and will probably come to the conclusion, that a war, renewed after all the circumstances just recapitulated, can hardly be deemed a just war, or receive any countenance from the intelligence and civilization of the rest of the world. It is certainly preferable not to come in collision with any nation, under any pretensions, however ill-founded, if they can be overcome by reasonable remonstrance or friendly

solicitation. But if all these have been exhausted in vain by us and the leading powers of Europe, to persuade Mexico to recognise the independence of Texas; the safety of international intercourse and the claims of humanity will compel the rest of the world to perform their duties to others, and sustain their own national rights.

Under all the circumstances, then, we not only possess rights to secure our frontiers more effectually in both peace and war, and protect our institutions and commerce from all disturbances; but it is our duty to do it when voluntary and amicable opportunities exist, and we should beside be justly exposed to severe censure, as the leading power on the American continent, if we longer neglect to extend more decisive influence in favor of a weaker, and wronged people, our neighbors and kin; and to interpose effectually to put an end to inhuman aggressions upon them, and to restore peace, commerce, and civilized conduct on the theatre of the new world.

The rules of national law are clear on this point; and in the first place, as to the interposition for stopping a contest, which has been conducted with inhumanity.

I fearlessly assert, that if the condition of things which has existed since 1836, is to be dignified by the name of a public war, between Mexico and Texas, it has been conducted in such a predatory and uncivilized manner, that if, by a friendly union with Texas, we became exposed to it, and it is renewed, we shall perform a great public, christian, and international duty by thus taking it on ourselves and ending it.

Mixed up with this, is often the consideration, that the contest has been carried on so long as to disturb too much the peace, commerce, and interests of the rest of the world; and in this way, tends not only to the gradual destruction of one or both of the belligerents; but sacrifices the mutual rights of others to free trade and tranquillity, and makes them victims to foolish obstinacy on the part of the combatants.

This is unreasonable, and may, by compacts between other nations, or the magnanimous impulses of one, be ended if practicable.

Let us first listen to what Chancellor Kent says against such misbehavior in war: In 1 Kent’s Com. 90, he denounces, as contrary to national law, the “making slaves of prisoners.”—(Cites Grotius for this and Montesquieu, as saying “that the laws of war gave no other power over a captive than to keep him safely.”) So page 91—plunder of private property on land is forbidden in war; and especially you are “not to disturb the cultivators of the soil.”

Hear Mr. Webster, also, on that point, (in Doc. 10, confidential,) in his letter to Thompson, part of which I have before cited for another purpose:

“You will take occasion to converse with the Mexican Secretary, in a friendly manner, and represent to him how greatly it would contribute to the advantage as well as the honor of Mexico, to abstain altogether from predatory incursions and other similar modes of warfare. Mexico has an undoubted right to resubjugate Texas, if she can, so far as other States are concerned, by the common and lawful means of war. But other States are interested—and especially the United States, a near neighbor to both parties, are interested—not only in the restoration of peace between them, but also in the manner in which the war shall be conducted, if it shall continue. These suggestions may suffice for what you are requested to say, amicably and kindly, to the Mexican secretary, at present, but I may add, for your information, that it is in the contemplation of this government to remonstrate in a more formal manner with Mexico, at a period not far distant unless she shall consent to make peace

with Texas, or shall show the disposition and ability to prosecute the war with respectable forces."

Let me explain how the *remonstrance* in a more formal manner against the Turkish mode of waging war in Greece upon women and children, farmers and vineyards, in 1827, (427,) was conducted by the great European powers. It was by laying the English, French, and Russian fleets alongside of the semi-barbarians, from whose decks the ravaging troops had been disgorged, and blowing up and otherwise destroying 4 sail-of-the-line, 15 frigates, 15 corvettes, 9 brigs, 3 fire-ships, and numerous transports; being the whole Ottoman fleet of near 100 vessels, and a loss of human life unprecedented in maritime contests.—(2 Blount, 428. )

Hear Mr. W. again on the right for us to interfere:

"Indeed, although the right or the safety of none of their own citizens was concerned, yet if, in a war waged between two neighboring states, the killing, enslaving, or cruelly treating of persons should be indulged, the United States would feel it to be their duty, as well as their right, to remonstrate and to interfere against such a departure from the principles of humanity and civilization. These principles are common principles, essential alike to the welfare of all nations; and in the preservation of which all nations have, therefore, rights and interests. But their duty to interfere becomes imperative, in cases affecting their own citizens.

"It is, therefore, that the government of the United States protests against the hardships and cruelties to which the Santa Fe prisoners have been subjected. It protests against this treatment in the name of humanity, and the law of nations; in the name of all Christian States; in the name of civilization, and the spirit of the age; in the name of all republics; in the name of liberty herself, enfeebled and dishonored by all cruelty and all excess; in the name and for the honor of this whole hemisphere; it protests emphatically and earnestly against practices belonging only to barbarous people, in barbarous times.

"Every nation, on being received, at her own request, into the circle of civilized governments, must understand that she not only attains rights of sovereignty, and the dignity of national character, but that she binds herself also to the strict and faithful observance of all those principles, laws and usages, which have obtained currency among civilized states, and which have for their object the mitigation of the miseries of war."—(Webster, April 5, 1842.)

"No community can be allowed to enjoy the benefit of rational character in modern times, without submitting to all the duties which that character imposes. A Christian people who exercise sovereign power, who make treaties, maintain diplomatic relations with other States, and who should yet refuse to conduct its military operations according to the usages universally observed by such states, would present a character singularly inconsistent and anomalous."—(Webster, April 5, 1842.)

Let us stop, then, if possible, by this alliance with Texas, the ferocious and cruel course of Mexico; her barbarous warfare on women and children; the letting loose of Indian butchery and conflagration; the assaults by a convict banditti for plunder; the shooting, in cold blood, of prisoners of war, or immuring them in dungeons and chains. I would remember that Lord Chatham appealed to the very tapestry on the walls of Parliament to frown on them for an indulgence in any such barbarous practices, as the portrait of the father of his country, on that wall, would now frown on us, if we justified such practices.

Belligerents have no right to ask from neutrals respect to belligerent conduct, unless it be of a Christian character, and such as is tolerated by the laws of civilized nations. But, on the contrary, they are justified in an armed neutrality, or in leagues, or alliances, to put an end to such inhumanities, as well as to their longer disturbance of the sympathies, commerce, and peace of other nations.

But enough as to the principles, applicable to

such a case, which justify us in risking even war if necessary to end these outrages. But I regret that one senator [Mr. CHOATE] has denied the existence of such atrocities on the part of Mexico, and has treated her as a most republican and "unoffending" power.\*

Indeed, sir, Mexico has been eulogized as a nation that has carried on a constant and humane war with Texas; and, at the same time, with much skill and success. What, sir? The success of eight millions of people against one-third of a million; and, after seven years, have not regained a single acre of land; but lost armies and chiefs by capture, and implored the clemency and release of them from the handful of lion hearts and eagle eyes and brave arms which, nerved by freedom, have stood up valiantly against oppression till the present moment!

But let us see how the facts accord with that senator's views. The evidence as to the moral and civilized conduct of Mexican warfare, as described by Mr. Van Zandt officially, and whose high and recognised station here entitles him to full credence, is this:

"Mexico has been depredating upon the property of our exposed and defenceless frontier, murdering the inhabitants in cold blood, or forcing them away into a loathsome and too often fatal captivity, inciting the numerous tribes of hostile Indians, who reside along our northern frontier, to plunder our exposed settlements, stimulating them to the most cruel and barbarous massacres and inhuman butcheries even of our defenceless women and children, and to commit every excess of savage warfare."—(Con. Doc., pp. 12, 15, Van Zandt to Upshur.)

Listen, next, on the facts, to Mr. Webster. In a letter to Mr. Thompson, he speaks of (31 January, 1843) "*predatory incursions* in which the proclamation and promises of the Mexican commander are flagrantly violated, non-combatants seized and detained as prisoners of war, and private property used and destroyed. Yet the senator from Massachusetts [Mr. CHOATE] doubts all this, has no sympathy nor complaint for this, but eulogizes Mexico as humane, "unoffending," and successful—yes, humane! Though when Mr. Thompson remonstrated with Mexico for *predatory forays*, &c., the minister virtually confessed the whole by vindicating it, in saying "*that prisoners taken were not entitled to any of the privileges of prisoners of war; but that they were rebels, and would be so treated*," &c.—(10 p. Doc., Confidential, March 14, 1843.)

Hear Mr. Webster further as to the facts about some other prisoners:

"The privations and indignities to which they were subjected during their march of two thousand miles to the city of Mexico, at the most inclement season of the year, were horrible; and if they were not well authenticated, it would have been incredible that they should have been inflicted in this age, and in a country calling itself Christian and civilized. During many days they had no food, and on others

\*In the debate, it was averred that the rights of conscience and religion had never been invaded by Mexico, and were similar under both governments, and protected in one as well as the other. With a view to correct this, and to show that Mexico, if unoffending, is not exactly the bulwark of our religion, (at least of the Protestant religion of the East,) I add an extract from the constitution of each on this subject:

"No preference shall be given by law to any religious denomination, or mode of worship, over another; but every person shall be permitted to worship God according to the dictates of his own conscience."—(Texian constitution, doc. 415, p. 16, H. of Rep. June 24th, 1836.)

"The religion of the Mexican nation is, and will be perpetually, the Roman Catholic Apostolic. The nation will protect it by wise and just laws, and prohibit the exercise of any other whatever."—(Mexican constitution, 2 Kennedy's History, p. 422.)



only two ears of corn were distributed to each man. To sustain life, therefore, they were compelled to sell, on their way, the few remnants of clothing which their captors had left them; but, by seeking to appease their hunger, they increased the misery which they already endured from exposure to the cold. Most dreadful of all, however, several of them, disabled by sickness and suffering from keeping up with the others, were deliberately shot, without any provocation. Those who survived to their journey's end, were many of them afflicted with loathsome disease; and those whose health was not broken down have been treated, not as the public law requires, but in a manner harsh and vindictive, and with a degree of severity equal at least to that usually inflicted by the municipal codes of the most civilized and Christian States upon the *basest felons*. Indeed they appear to have been ranked with these, being thrust into the same dungeons with Mexican malefactors, chained to them in pairs, and when allowed to see the light, and breathe the air of heaven, required, as a compensation therefor to labor, beneath the lash of a taskmaster, upon roads and public works of that country."

Though the senator from Massachusetts may discredit all the enormities so feelingly described by his friend, the late Secretary of State, and may think the hostilities to be now humane and successful, and Texas, if not protected or ceded to us, likely, ere long, to be reconquered by Mexico, can he, on reflection, think of that event with so much apparent and unmingled satisfaction? What, sir? Our brethren and children, decoyed there by new and liberal colonization laws of Mexico, and then stripped of their privileges, their constitution violated, and their rights of conscience invaded, and their Saxon blood humiliated, and enslaved to Moors, Indians, and mongrels? When prisoners of war and non-combatants, are they to be plundered, shot, or imprisoned in dungeons like felons, and compelled to labor like slaves? Is all his sympathy and patriotism to tell them, if disliking that, they may submit to the holy-alliance claims of Mexico, or take refuge under the power of England—recolonized to the power their fathers defied, and resubjected to a monarchy and established church? I do not profess to use his words, but to show the tendency of his argument. Will the senator from Missouri concur with him in this view? No, sir; no. In another part of his speech, the senator from Massachusetts admits that much blood is yet to be spilt there. However near the reconquest appears to him under so vigorous a war of eight years by eight millions of people against two or three hundred thousand; and if much more is to be so spilt, why ought not all of us to seek, by the ratification of this treaty, to prevent the calamity and the unchristian stain of it on civilization, as well as save our kin from the ignoble bondage, as I regard their resubjugation, but the great blessings, as he seems to consider them, of an early reconquest by the *free, enlightened, and unoffending* Mexicans?

But there are other views of the existing relations between Mexico and Texas, which render the reannexation not only free from exposure to any actual or just war, but an act of high national duty for relief to a weak and oppressed neighbor. Thus it is repeatedly laid down by writers on national law, that nations may properly assist each other, when their rights are violated, whether, in consequence of such violation, they change the old rulers or old government, or divide and declare a part independent. (Kent 24 p., Vattel B. 2, ch. 4, sec. 56.) Vattel hence approves "the case of the Prince of Orange as a *justifiable* interference" in the affairs of England; and Kent says: "The assistance that England gave to the United Netherlands, and the assistance that France gave to this country during the war of the revolution, were *justifiable acts*, founded in wisdom and policy." And Spain herself, once, through her gov-

ernor in Florida, claimed from us the enforcement of this principle.

Governor Folch (December 2, 1810, 3 State Papers, 396) asks our aid to expel insurgents, as "the United States, who profess the exercise of equity, cannot exempt themselves from taking part with the *party unjustly oppressed*." In national, as well as personal conflicts, the duty of others to interpose, and protect the weak and oppressed, is a principle of human nature.—(1 Martin's Law of Nations, p. 80.) It is instinct. It is justified by reason; and sympathy carried into action in such cases tends to ennoble our common origin and destination; and, if the case is one even of doubtful character, humanity turns the scales in favor of the weak.

The relief must, of course, be rendered against the party in the wrong, as we have already shown Mexico to be—not only on the American principles of self-government, but on those of a just resistance to her arbitrary outrages, and the uncivilized manner of her past hostilities, and the opinion of most of Christendom against her further efforts to conquer Texas. The former has been aggressive—the latter only defensive. The former feels power and forgets right, while the latter has never asked either authority, privileges, or treatment, but such as our fathers before them fought and bled to establish. It is a prominent object in many treaties to consult, not only the "common tranquility of both nations," as an object, (1 Col. of Treaties, page 122,) but the rights of humanity and civilization among the rest of the world. I am no alarmist, nor shall I contribute to any panic debate; but, in my opinion, it is always the right, and at times the duty, of every nation to interpose, not only urge the cessation from an unjust war like that of Mexico, but, if need be, to form treaties, and supply troops and means for its suppression. I would dissuade from interference like that of the Holy Alliance, to prevent a people from exercising the power of self-government. I would justify no Copenhagen seizures of the vessels of an unoffending neutral. Nor would I wander over the world to distant nations, to redress grievances concerning which our knowledge was limited, and with which neither our interests nor tranquillity were much connected. This would, in some cases, as it has with England, border on political quixotism. But on my own continent—on my own frontier—as to a people of my own stock and faith—and a territory once and for a whole generation my own—I would not hesitate to form a peaceful alliance, and, if need be, to exercise every national influence for protection to the weak and oppressed.

Let me entreat senators to recollect for a moment how often this has been done, even by crowned heads, whose tendency has been more for war than republics; and in ages less civilized even than this; and by as well as against some powers who, in the very treaties, were so near ruder periods as, among other titles, to retain that of "King of the Goths and Vandals."

Thus, as early as 1585 and 1591, are such treaties to be found in modern times.—(1 Chalmers's Treaties, and 3 Collection of Treaties.) In 1659, February 3, a treaty was made between Richard Cromwell and Louis the 14th to *mediate* between Sweden and Denmark, and if these powers would not make peace, to *help* Sweden; and if France or England was, in consequence of it, attacked, they engaged to make their defence a *common cause*.—(3 Col. of Treaties.) Another of similar tenor "for obliging the

northern kings to make peace," was entered into May 21, 1659, by France, England, and the united provinces. They were to use their fleets, if necessary, and to try, through their ambassadors at Denmark and Sweden, to secure their commerce in the Baltic free and undamaged.—(191 page.) Another on the 24th of July, 1659, between England and the United Provinces, was "for inducing Sweden and Denmark to make peace;" and whichever power did not consent to it in a fortnight, was to be induced by using their fleets against her; (197 p.) and another still was made August 16th, of the same year, between some of these powers "for procuring a peace" between the others, by the employment of their navies in concert, if necessary.

Elizabeth, by assistance to the Netherlands in various ways, helped to secure the triumph of the Protestant religion, and to build up the naval power of England, so as to triumph over Philip's invincible armada. She made a treaty of alliance with them nearly forty years before Spain acknowledged their independence.—(1 Chalmers, 123 p.)

Again, in 1603, her successor, James the First, and Henry the 4th of France, entered into a compact to mediate with Spain for the recognition of the independence of Holland, and in the event, that the parties could not be reconciled on just terms, they made the important stipulation to aid the side least stubborn, and aid each other, if assailed by Spain.—(1 Col. of Treaties, 128 and 9.)

In 1668, (1 Col. of Treaties, 136,) a triple alliance was made between Charles the Second of England, and Charles Second of Sweden, and the Netherlands. They professed to feel much grief at the calamities of the war which had involved most of Christendom; and provided that, if Spain would not accede to what they thought reasonable terms, and end those calamities, they would take "more efficacious measures."—(141 p.) If England or the Netherlands were attacked, the number of ships and troops to be mutually furnished was arranged; and the King of Sweden, on certain subsidies, was to assist; and if France proved unreasonable and stubborn, he was to "side with Spain, and make war against France."—(p. 145.)

Can any of us forget, also, without more details as to earlier ages, the memorable alliance by France to aid us in 1778, when weak and oppressed, and which, as before seen, the soundest writers on national law have justified?

In 1825, (September 20th,) Mexico and Colombia made a similar treaty for mutual defence and independence, against Spain.—(26 and 29 Niles's Reg. p. 356.)

And the celebrated Congress of Panama was projected for a like purpose, among others. Indeed, by the last arrivals, the British writers in politics are, on this same principle, excusing the recent interference of England in favor of the people of Scinde, and against its amirs or princes. Speaking of the latter, the Foreign Quarterly Review for January, 1844, says: "They were in reality tyrants; and, in delivering the inhabitants of Scinde from their yoke, we were performing good service to HUMANITY," &c.

No more signal instances exist in modern times of this interference of other powers to assist the oppressed and terminate protracted hostilities—injuries to the common interest of the world—than those memorable ones, as to suffering Greece in 1827; as to Belgium in 1831, and Turkey in the Syrian war by Ali Pacha in 1832.

Though some of the Holy Alliance were engaged

in these humane enterprises, yet others united with them; and the object of the whole, so far from being similar to that of the Holy Alliance, and hostile to changes of government by the people, was, in the case of Greece and Belgium, for protection under those changes, and to end a struggle which might be protracted and useless against them, as well as dangerous to the general peace of Europe.

The former case was deemed one of so justifiable an interference here, as well as abroad, that "a universal burst of acclamation" is said, by one of our whig annalists, to have "hailed the first news of the victory of Navarino, throughout civilized America and Europe." And the distinct object then for the movements of the allied powers, as shadowed forth in their treaty of July 6, 1827, was to restore peace to Europe; and, though the Greeks were considered by them to be in a state of revolt against their lawful sovereign, yet they were desirous to protect them from destruction and the ravages of a barbarous system of warfare.—(3 Blount's Register, 228-9. 6 do. 158.)

In the case of Belgium, the five powers, England, France, Austria, Russia, and Prussia, agreed to a protocol on the 4th of Nov. 1830, by which they required a cessation of hostilities on both sides, and a virtual recognition of the independence of Belgium. This was done, though the revolt had existed scarcely a single year.

But the peace of much of the world was likely to be disturbed, and its industry and commerce most injuriously deranged; and hence they felt justified to interfere, and did interfere, even to aid the revolters. Both England and France despatched their fleets to succor the weaker power; and as a check to the obstinacy of Holland, in still persevering to lay waste villages, and burn farm houses, they demolished the citadel of Antwerp, after a bombardment one of the most remarkable in history.

The other case was equally striking in some respects, having been an interference to protect the Mohammedan. Yes; the slaveholding Turk against revolting subjects; many of whom, in Syria and Egypt, were Christians.

England, Russia, and France, (all boasted Christian powers, and so ardently enlisted in favor of abolition,) united and mediated not by words only, but Russia, by the bayonet and cannon, to shield the infidel slaveholder from the destruction, and restore peace in that quarter to Asia and Africa, as well as Europe. They looked to the rights of commerce and the tranquility of Christendom, and the great interests of peace, rather than to creeds of belief or domestic institutions.

So again in the case of the revolting Greeks; they united to aid even republicans and rebels under certain conditions.

After all this, shall we, the leading power on the continent, see our Christian, as well as republican brethren, in Texas, harassed longer by barbarous hostilities; and, in a just cause, not sustain those who have so long and valiantly sustained themselves, when monarchs abroad do it, even for Mussulmen, rebels, and democrats? Shall they do it for these more distant, and we not for our nearest neighbor and kin? Shall they, whose trade has been fighting, interfere efficiently for peace in aid of a just struggle, and we who profess peace, and to be the disciples of the Prince of Peace, not lift a finger to restore it?

Have we lost our sympathies, our humanity, our



religion, and neither incline nor dare to do our duty, from fear of envious censure?

How much did considerations like some of these rally all Europe to band together in driving Napoleon to Elba and St. Helena, and thus restore peace, and order, and prosperity, to the desolated cities and fields of most of Christendom! These are not war measures, but peace measures. Nations, like individuals, are often to be blessed if peacemakers—and that, not only by the use of arguments and entreaties, but force, if required. Both should thus interpose, if death, or ruin, or serious injury, is likely to happen to others, as well as themselves, by a continuance of hostilities—as the rights of peace are paramount to those of war, and such interposition is the more quickly to restore commerce and public tranquillity. This suppression of further conflicts is proper between parties who either do not use proper means for ending them seasonably, or who outrage the laws of civilization in their mode of warfare. The object of such interference is speedier and surer repose to the world. It deserves encouragement from the friends of peace and sound morals, as well as of improving industry and free trade. It is philanthropy, rather than selfish aggrandizement; and merits applause, rather than the denunciations witnessed on this occasion against those who are anxious, by the ratification of this treaty, to stop the further effusion of human blood, the waste of money, and obstructions to agriculture and commerce too long growing out of the past ruinous relations between Mexico and Texas.

Finally, let it not be forgotten that it is our duty to take this peaceful and voluntary cession, even if a risk of war ensues, provided that we ourselves are thereby likely to escape from serious injury through foreign influences. Much more can those vindicate it who believe it necessary to actual self-preservation, or the security of the institutions, property, and commerce, of any portion of that great republic, one and indivisible, whose “domestic tranquillity” and welfare the constitution itself was made in part to guaranty.

Thus, while France subdues Algiers, or seizes on islands in the Pacific, and while England invades China, and India, and Africa, we look on without intermeddling, except by uniting in that public opinion and public judgment of the rest of the civilized world, which finds so much to condemn in some of these aggrandizing and violent measures. But let these foreign powers, in their restless ambition, approach Cuba on the south, or Texas on the west, and our own hearths and altars become endangered; and the pervading instinct of self-preservation, no less than interest, will, at times, require us to act. In such case, if need be, we must take more efficacious measures than to talk. We must even arm, rather than have powder magazines of all kinds placed around our frontiers, and the safety of property, revenue, and all the commerce of the mighty West jeopardized. The precautions taken and the resistance made on our part, in such a case, cannot justly be called intermeddling in the internal conflicts of parties in another government. Nor is it a struggle, like many in centuries past, to preserve the old balance of power, and check the undue enlargement of a neighbor, which remotely, and in time, might prove injurious; but it is to repel danger to ourselves, quite certain, if not immediate; and that from a quarter already hemming us in and round at every point of the compass. We can, in such cases, on sound principles of national law, not only take pre-

cautions to prevent the catastrophe, as is now proposed, for that and other reasons, by a peaceful and voluntary purchase of the territory, but can, if we please, lawfully interpose and aid the party which is just in its efforts for self-government, by making with it alliances or a union of territory, institutions, and exertions.

Hence, in Kent's Commentaries, p. 22, while he justly speaks against the interference of one nation to change the government of another, at the same time he says: “Every nation has an undoubted right to provide for its own safety, and to take due precaution against distant, as well as impending danger.”

A memorable case occurred in 1810, showing under what degree of danger and apprehension so careful a man as M. Madison felt justified to seize on a neighboring territory in possession of Spain, and without an act of Congress.

In the National Intelligencer, December 28, 1810, a letter from New Orleans speaks to this effect, of the territory east from New Orleans to the Perdido:

“The country, at least as far as the Perdido, ought to be taken possession of by the United States; and if there should be the most distant probability of East Florida falling into hands of any European power whatever, we should, without hesitation, fix our standards at St. Augustine and Pensacola. The province of itself is of little value, but it is one of the keys to the Mississippi. Power placed there will control the commerce of the Western World.”

And in the presidential message of December, 1810, Mr. Madison announces his movements to take possession to the river Perdido; as there was an unadjusted claim, and a revolution, and we could hold till an arrangement was made with Spain.

Spain had been left in possession till the claim to it by us was settled by negotiation; but her power had been resisted by insurgents, and subverted; and Madison ordered out troops and took possession of it without waiting for any new law by Congress; because a situation was “produced, exposing the country to ulterior events which might essentially affect the rights and welfare of the Union.”

If force was opposed to us, the United States troops were instructed to repel it, except from any place still in Spanish occupation.—(Int. December 5, 1810.)

In his message, he says Congress will make “whatever provision may be due to the essential rights and equitable interests of the people, thus brought into the bosom of the American family.”

He thought a crisis had arrived “endangering the tranquillity and security of our adjoining territories,” &c.—(See his proclamation.)

In 3 State Papers, p. 394-9, is Mr. Madison's message at length, and the letters as to that part of West Florida.

From the whole it appears, that by force we occupied east to Perdido, not because it was claimed by us, but because the Spanish authority had been “subverted by a revolutionary proceeding, and the contingency of the country being thrown into foreign hands, had forced itself into view.”

A few of Mr. Clay's remarks on that occasion were so intrepid in spirit, and showed so well the dauntless energy of him and his then republican friends, towards all opposition, whether from abroad or at home, that they deserve special remembrance. It was such conduct then, and in 1811, 1818, and 1820, on kindred topics, that paved the path on which he has since walked to such wide fame:

“I have no hesitation in saying, that if a parent country will not or cannot maintain its authority in a colony adjacent to us, and there exists in it a state of misrule and dis-

order, menacing our peace—and if, moreover, such colony, by passing into the hands of any other power, could become dangerous to the integrity of the Union, and manifestly tend to the subversion of our laws—we have a right, upon eternal principles of self-preservation, to lay hold of it. This principle alone, independent of any title, would warrant our occupation of West Florida.

"We are told of the vengeance of resuscitated Spain. If Spain, under any modification of her government, choose to make war upon us for the act under consideration, the nation, I have no doubt, will be willing to meet the war. But the gentleman reminds us that Great Britain, the ally of Spain, may be obliged, by her connection with Spain, to take part with her against us, and to consider this measure of the President as justifying an appeal to arms. Sir, is the time never to arrive, when we may manage our own affairs without the fear of insulting his Britannic Majesty? Is the rod of British power to be forever suspended over our heads? Does Congress put on an embargo to shelter our rightful commerce against the piratical depredations committed upon it on the ocean, we are immediately warned of the indignation of offended England. Is a law of non-intercourse proposed, the whole navy of the haughty mistress of the seas is made to thunder in our ears. Does the President refuse to continue a correspondence with a minister who violates the decorum belonging to his diplomatic character, by giving and deliberately repeating an affront to the whole nation, we are instantly menaced with the chastisement which English pride will not fail to inflict. Whether we assert our rights by sea, or attempt their maintenance by land—whichever we turn ourselves, this phantom incessantly pursues us.

"I am not, sir, in favor of choosing the passion of conquest. But I must be permitted to conclude by declaring my hope to see, ere long, the new United States (if you will allow me the expression) embracing not only the old thirteen States, but the entire country east of the Mississippi, including East Florida, and some of the Territories to the north of us also."

There is another illustration on that very frontier as to what kind of danger to our property must exist, in order to justify forcible interposition, and from which it can readily be inferred how much less or remote danger would make it our duty to interpose by a peaceful purchase, even if some risk of unjust retaliation against us should accompany the transaction. In the House of Representatives, on the 8th of January, 1811, in secret session, a resolution was passed, authorizing the President, in either of two events, to take possession of the Floridas.—(2 Executive Journal, pages 180, 181.) The steps were adopted from the "intimate relation of the territory" to the United States, with an eye "to their security and tranquillity," and considering the "peculiar situation of Spain and of her American provinces;" and it was resolved that we could not "with indifference" "see it pass from the hands of Spain into those of any other foreign power."—(Page 175.) See Mr. Madison's message recommending the steps, though it was then denounced by a few of his political opponents as "robbery and war," while others vindicated it on high principles of national law.—(National Intelligencer, 5th January, 1811.) (Annexed A and B, are the whole message, report, and declaration.)

The British Minister then protested, and intimated that we acted "from ambitious motives," or by a desire of foreign conquest and territorial aggrandizement. How exactly does the senator from Massachusetts now tread in the footsteps of the British Minister. Mr. Foster urged further, that the United States, under this pretext of a claim, "cannot expect to avoid the reproach which must follow the ungenerous and unprovoked seizure of a foreign colony, while the parent State is engaged in a noble contest for independence," at home, &c.—(2 State Papers, 543.)

Mr. Monroe replied to Foster, July 8, 1811, (543,) and not admitting the right of England to interfere, repels the motives imputed, though too common abroad.

Again, November 2, 1811, he says we had claims for spoliation, &c., on Spain, long unsatisfied; looked to East Florida, as means near for indemnity; and could not allow them to go out of our reach, "without injustice and dishonor to ourselves, and no other power could take East Florida, but from hostile views to us. Hence the act of Congress was passed, empowering possession to be taken in certain events.—(2 State Papers, 544 p.) He adds: The United States "have been persuaded that remission on their part might invite the danger, if it had not already done so, when it is much their interest and desire to prevent it, (544 p.)

Much more of detail on this can be seen in the volumes referred to, and our own files, as well as in the National Intelligencer of June 20th, 1811. And it is not the least remarkable coincidence, that the first appearance of some of these documents was then, as now, by an unlicensed publication of them in a newspaper in Connecticut, probably from the confidential copy of some senator, with a view to make political capital against Mr. Madison, and by which the Intelligencer justly remarked, "the public interests were wantonly disregarded." These cases are all those where force was used or contemplated, and urging excuses for it. But, in that of Texas, we have used no force, and propose to use none, unless unjustly attacked; and will not the reasons already recapitulated excuse defence, when attacked, if they then excused force in the first instance?

In 1820, it was again recommended by President Monroe, the Secretary of State being Mr. Adams, to pass a law to take possession of the Floridas, notwithstanding the treaty ceding them had not been ratified. Some of the reasons urged in the public prints were, the necessity of them for safety to the southern States, for better protection against insidious interference from abroad, and the contempt as well as injustice attached thereto to the Spanish power.—(Niles's Register for 20th December, 1820, and 18th March.)

Let it not be said, as differing from the present case, that we then had claims against Spain unsettled, for we now have important ones against Mexico.

These may be considered by some as bold measures. They were recommended at least by bold men—men who knew their rights and always dared to maintain them, however menaced at home or abroad. They only looked for the path of duty, and, when found, moved forward in it, swerving neither to the right nor left, from attempted intimidation or foreign intrigue. As an example for us on this occasion, let us look to the practical exposition of their principles in 1803, as well as in the cases of 1810, 1811, and 1820, just referred to.

The apprehension of any difficulty with Spain, who remonstrated against our right to purchase Louisiana, did not deter our patriot fathers in 1803 from accomplishing that ever memorable duty, and glorious act of policy; and as little did the apprehension of a seizure of it by England, in her war with France, then breaking out, alarm them from their purpose. Much less should such fears swerve us from the still higher and more numerous obligations that urge us onward to a peaceful acquisition, not made in the spirit of aggrandizement, but, beside other good motives, to restore what was our own near half a century ago, and what, by Jefferson and Madison, with the whole Congress and country, except a small disaffected party, was vindicated as a purchase just and

necessary for national security and national prosperity.

On what ground can any part of the European world presume to interfere with our amicable compacts with neighboring States on this continent? And on what just ground are we to be deterred from what is right, honorable, and peaceful in managing our own affairs, because displeasure happens to be expressed at it by Mrs. Grundy or Lord Brougham, or Daniel O'Connell, or Lord Aberdeen? What if the exhortation of one of them came to us last evening across the Atlantic, trying to rally the whole British empire to interfere at once to prevent the annexation of Texas?

England forgets that she recognised our independence more than half a century ago; and one would think that it was nearly time now for her oligarchy to refrain from intermeddling in our affairs. She is in an admirable position to denounce our thirst for acquiring territory, when she has added encroachment to encroachment till her forts and factories encircle the whole globe almost as closely as her light-houses do her coast.

As to such tirades, and the threatened scorn or censure of the world at large on us for the transaction, I cannot refrain from recalling to your minds the eloquent sentiments uttered by Mr. Clay in 1820, when the recognition of the South American provinces was under consideration, and when the reproaches of transatlantic rivals were held up *in terrorem* against us:

"On a subject of this sort, Mr. C. asked, was it possible we could be content to remain, as we now were, looking anxiously to Europe, watching the eyes of Lord Castlereagh, and getting scraps of letters doubtfully indicative of his wishes; and sending to the Czar of Russia, and getting another scrap from Count Nesselrode? Why not proceed to act on our own responsibility, and recognise these governments as independent, instead of taking the lead of the Holy Alliance in a course which jeopardises the happiness of unborn millions? Mr. C. deprecated this deference for foreign powers. If Lord Castlereagh says we may recognise, we do; if not, we do not. A single expression of the British minister to the present Secretary of State, then our minister abroad, he was ashamed to say, had moulded the policy of our government towards South America—an expression which, like Mr. Adams's definition of republicanism, had been construed to mean anything or nothing. We look too much abroad, Mr. C. said; you may find our minister in England at one time at the door of the Horse Guards, and the next moment in Paternoster Row, purchasing literature for this country. Our institutions, said Mr. C. now make us free; but how long shall we continue so, if we mould our opinions on those of Europe? Let us break these commercial and political fetters: let us no longer watch the nod of any European politician; let us become real and true Americans, and place ourselves at the head of the American system."

Even two years earlier, in a speech of the 24th of March, 1818, he exhorted us to make the lead in favor of the revolted and oppressed provinces of Spain, in "defiance of the divine right of kings to rule." If we erred, it was better to err on the side of human liberty. He was "not a propagandist," but had sympathy for such a people, and would recognise them, and act further, "*as circumstances and interest require.*" (1 vol. of Speeches, 85 p.) If we were ourselves independent, we ought to be "guided by American policy," and "obey the laws of the system of the new world."—(88 p.)

In doing this, as I have recently remarked on another occasion, if we be threatened, or actually comes, it will be gratifying to reflect that it comes wrongfully, and might come so in any other difficulty—even for the mere acknowledgment of Texian independence, as was menaced by Spain in a like case, and by Santa Anna himself for still slighter

reason. But whatever nation, heeding threats or exposure to unjust war, is tempted by the dread of them to turn aside from the path of duty, humanity, and honor, is itself unfit to exercise independent powers, and should be reannexed to her ancient masters.

So far from this shrinking having marked our course, even under more threatening dangers in 1810, 1811, and 1820, we went still farther in 1823 than before; we avowed a determination to interpose ourselves, if any new foreign power should presume only to colonize anywhere on this continent, and hence much more, if in Cuba or Texas, in our near neighborhood; because, more than ten years previous, it had been brescen and stated, that if a new foreign power should take possession of Cuba, the whole Mississippi valley will be at her mercy.—(Nat. Int., 8th July 1811.)

We united in the Congress of Panama, even before Mexican independence had been acknowledged by a single European power; one object of which was, "firmly establishing the independence of each of the American republics."—(Canaz Letter, 96, Appendix, 4th Blount.)

Another object was to concert measures to prevent Europe from colonizing further in any part of the American continent.—(Salozar to Clay, Nov. 2, 1835, p. 92, Appendix.)

And this rested in part on the idea that such a colonization would endanger the independence and safety of all the new republics.

In 1825, under Mr. Adams's administration, Mr. Clay, as Secretary of State, seems to have been authorized to state officially, not only that "we cannot allow a transfer of the island (Cuba) to any European power," but that the Mexicans have been dissuaded not to attack Cuba in the war with Spain, lest it might lead to consequences dangerous to the domestic tranquillity of the South.—(Clay to Middleton, 26th December, 1825, Blount's Register, 91.)

It therefore not only became a common object in this continent to prevent new foreign settlements and influences here, but we labored to enlist friendly powers in Europe to sanction it, and succeeded in convincing England that it was her duty, as well as ours, to prevent any nation abroad from aiding Spain to reconquer her revolted provinces.—(2 Wheaton, 81 to 89.)

But, so far from this countenancing any force or intrigues from abroad, to control any of the new republics here, it aimed in principle at the defeat of such attempts, as well as of ordinary colonization. It tries to secure to all America self-government, free either from European diplomacy or European arms. If Texas, or any other republic, chooses to cede a part or all her territory, and unite with other sister States in government, what right has Great Britain or France to interpose, more than we have with the voluntary union of Ireland with England? or the voluntary separation of Belgium from Holland?

A war in Europe may arise from the change of masters over a single city or province, but it is a war in her own brotherhood or system; and neither connects itself with changes in Asia, though of dominion there over empires, nor recognises American interferences in Europe or Asia more than we admit of European ones here. Mr. Madison says, Europe has, in many respects, a system of policy and interests, almost peculiarly her own, and disconnected from other quarters of the globe. The danger of foreign interference, and of collisions with other na-



tions than Mexico, is really more imminent, if we postpone annexation, than if we complete it forthwith. In this last case, the door is shut to European tactics. Threats, jealousies, or favors, intrigues and appliances of all kinds, will be superseded, and future struggles or blood to secure ourselves on that frontier, worse than anything now probable, will all be obviated.

In closing these remarks on officious interference from abroad, and manufactured public opinion abroad, I say, unhesitatingly, that if we are to be calumniated for exercising a constitutional right to purchase, treat, and unite, with an independent nation, in procuring again an empire in size, which we once owned, and is occupied by our own brethren; for doing this by peaceful negotiation, and for mutual benefits, rather than by rapacity or fraud; and for exposing ourselves to no just cause of war, but, on the contrary, terminating a predatory and barbarous contest in behalf of liberty, independence, religious freedom, the Anglo-Saxon race, and the progress of humanity and civilization,—I, for one, am ready to appear at the bar of public opinion; and stand prepared to abide the calm judgment of both cotemporaries and posterity.

Some senators have deemed it a duty not to take this session on account of our relations with Mexico, and the fear which ought to be entertained of her vengeance. But it is a mistake to suppose that, by this session, if our former positions have been maintained, we thus violate the solemnity of our treaties with Mexico. It is no violation of them to consider the territory of Texas as not Mexican, but as belonging to another power—to Texas herself. So says the late Secretary of State, and so said, in 1838, our treaty of limits with Texas. Even if Mexico chooses to involve us in war on that account, we are not guilty of such a violation any more than we were by our *quasi* war with France in 1798, and our real war with England in 1812; as we then had solemn treaties of peace with both of those powers existing, as sacred and in full force as now with Mexico.

It is begging the question to call our conduct on any of these questions a violation of our treaty obligations.

As little should we be terrified from duty by the apprehension of Mexican power, when exercised unjustly; though almost every speech on the other side begins and ends with war—not only threatened, but war approaching—war almost in our midst. But we should fear a neglect of duty to our own country and Texas much more than the *prospect* and *success* of Mexico, which have been so exaggerated, while, in truth, so lame and impotent as, during six years past, to kill a few women by Indians and convicts, and capture one judge and two or three travelling editors of newspapers, but not retain a single foot of land or a single fort. And, though some of the gentlemen who engaged in this debate seemed almost to see merchants fleeing, property sequestered, commerce plundered on the ocean, cities sacked, and Santa Anna ready to plant (as he once threatened) the Mexican standard over our heads on the dome of our Capitol; yet, unfortunately, that hero has heretofore so misbehaved in peace as to have driven most of our traders already from his dominions, and to have neither power to come here by water, except in borrowed vessels, nor disposition to march eastward again by land, over the territory near the field of San Jacinto.

How long it would take Mexico to reconquer

Texas when allied with us, after the attempts so vain and so long on her unallied, it is not very difficult to compute; and I think the nerves of our wives and daughters, and the cradles of our infants, may be kept tolerably calm under this new panic. On the contrary, Mexico has every inducement to pursue a policy entirely different, and more worthy her natural position.

She has a noble opportunity, on this occasion, to withdraw from her further claims with dignity, and honor, and courtesy. It is not necessary that she should formally admit what has so long seemed apparent—her inability to reconquer Texas; but merely acquiesce in the independence of a territory, whose people were mostly invited there from the United States by new colonization laws, in order to aid her in defence against Indian aggressions, whose education, habits, and religion, do not accord with hers, and are unsuited to harmonize under her system; and, as before fully shown, have rightfully resisted it: and in fine, whose valor and success have excited the sympathies and confidence of most of the world. For the sake of meeting the wishes of the great powers of that world, and restoring quiet to its commerce, as well as peace, what is there derogatory in saying she will no longer stand up against the public opinion of Christendom? Spain having done the same by Mexico, and England by us, no feeling of pride is injured, nor the slightest humiliation involved, while at last she may win some glory by becoming the pacificator of much of the new continent.

Let us not, then, cling to this twig, or dwell on that small flaw—hang a doubt on one loop, and an old prejudice on another. But group all these strong incentives to action together—add the political force of one to the moral strength of the other, and the urgent national interests in future, as well as now, so deeply involved to the whole, and then weigh them *en masse*; and if they do not show a heavy preponderance of duty on us to take the session immediately, I must confess my inability to weigh properly either evidence or principles.

It is, however, well known that a portion of this body deem our right to acquire, and the right of Texas to cede, clear; and our duty, at some time, to carry the measure into effect equally clear; and yet entertain doubts whether the present moment is most suitable for that purpose. To such I would, in conclusion, submit a few suggestions.

The annexation of Texas has been deemed desirable now by our executive, as well as the government of Texas; and a treaty has been finished to that effect, to be ratified within six months. Without strong reasons, what has been duly commenced, as of national magnitude, should be completed.

Again: Texas has been invited to institute proceedings, and close the treaty; and without strong reasons she ought not, in this stage of the business, to be disappointed and repudiated.

The reasons acting on the executives of both countries—the proper organs to commence such measures—have been sufficient and urgent, and requiring, in their view, immediate annexation. It is well known, also, that many of the objections hitherto prevailing as to the stability and ripeness of Texian independence, and as to the probability of reconquest by Mexico, have been much weakened, if not entirely removed. Public opinion, too, has had more time to be developed, and has been fully disclosed in favor of annexation now, by public meetings and resolutions, by memorials and cor-

respondence, infinitely more decisive and long than when it was negotiated for in 1825 or 1829, or when it was offered in 1837. A rejection now is likely, also, to be construed as if casting dishonor on Texas, after inviting her action and concurrence in the cessation and proceedings so far.

We have been trying to accomplish the reannexation for more than twenty years; and now, when peaceably within our grasp, can it be wisdom to let it escape, for reasons of form or ceremony, or party? If it be a mere question of time, as some urge, then why not seize time by the forelock? Why, in the language of the late national convention, not do it "as soon as practicable?" Delays, also, are dangerous, lest offence be taken on the other side, and the proposition be never resumed. So a delay here may lead to alliances and guaranties elsewhere, though not probably to reunion in government with a monarchy. Reannexation may be thus defeated long, if not forever, as well as a dangerous foreign influence planted on our borders, which will not only peril our domestic institutions and property, as the Texian constitution is open to change on all subjects, but rob us of the control of the Gulf of Mexico, and girdle us around from New Brunswick to the Sabine, in a more iron and deadly gripe than that contemplated by France before our revolution.

I say nothing here on the disclaimers of England as to abolition designs with us, when she has avowed them as to the whole world—has encouraged them in Brazil and Texas, if not on the La Platte—has sheltered our slave criminals in her provinces and islands; but I do say that our country, and our whole country, cannot see with indifference the wall she is closing up around us. Cuba at her mercy on the South whenever war approaches, the Gibraltar of the Gulf of Mexico—the Bahamas on the East, bristling with cannon—Halifax, Quebec, and Malden, with munitions and soldiery, on the Northeast and North—the Rocky mountains on the West barricaded, and the mouth of the Columbia fortified by her Hudson's Bay company; and last, but not least, Texas on the southwest, forced almost insanely by us into her influences and protection, if not close alliance. Even in this debate, some senators [Mr. CHOATE] have considered the reconquest of Texas by her old oppressors as probable, unless annexation to us speedily takes place, and yet refuse that annexation, and complacently foretell that there is another mode escaping subjugation by accepting British aid, and, I presume, of course, with it, British abolition conditions, as well as British control. Beside these indications of the evils likely to result from delay, and beside the readiness of Mexico to continue her persevering efforts to thwart us in the object of annexation, by any co-operation with England, we have already had a foretaste since 1837 of the gratification felt in the British public at our shortsightedness in not uniting earlier with Texas, and the sanguine hopes of their future influence there, which have thus been excited.

The Edinburgh Review of 1841 says:

"The United States, in refusing to admit Texas into their confederation, have rejected an offer, which in all probability will never again be made to them; and Texas becoming, as years pass by, more and more attached to its own institutions, its own distinct policy, and its own national policy, and its own national character, will speedily regard the United States with some of those feelings of jealousy, which nations always learn to entertain towards their nearest and most powerful neighbors. The commercial interests of Texas, and the antipathy to the northern portion

of the United States, which she inherits from her kindred of the southern States, will always tend to unite her with Great Britain."

After detailing the advantages of a close alliance between Texas and Great Britain, the Review adds:

"The bonds of ancient kindred may thus be knit with fresh strength; and the independence of Texas create only a wider diffusion of the British race and British sympathies."

After going over the inducements existing both in Texas and in the United States, to the conclusion of a treaty, and remarking that the signature of it "need not surprise any one," the London Herald thus speculates:

"Such a treaty would (unless the consent of Santa Anna thereto have been previously obtained—a most unlikely event) lead to rupture; if not to hostilities, between the United States and Mexico, and even if it did not produce immediate war, would most certainly foster the 'mission' to overrun Mexico which even now has possession of a large proportion of the Anglo-Americans. In a quarrel arising from such cause, England and France would have a right to interfere, only because annexation affected their acquired interests in Texas; it is the policy of both countries to support Mexico as a counterpoise to the United States; and England has an especial ground for the preservation of Texian independence in its influence on Canada."

Suppose that Mr. Jefferson had listened to delay in the purchase of Louisiana for only a single month, the war being renewed between England and France, would have made it a prey to British superiority at sea; and all the evils now deprecated as to the security of the commerce and cities of the Mississippi, and the domestic tranquillity of the South would have been earlier felt and earlier agitated the whole Union.—(See Marbois History of Louisiana.)

What is the bearing of the new correspondence on this subject? It is most significant. It discloses the fact that Texas deems a new and formidable invasion from Mexico, when she hears of this treaty, to be so probable as not to be willing to enter upon making it without assurances of aid from us, if the exigency occurs while the negotiations are pending. So much is certain, that if we reject the treaty or delay it, and the invasion comes, Texas must be satisfied that no just aid can constitutionally be granted by us. What, then, must be her next resource? Will it be to take the field and wade through carnage, expense and conflagration, to repel it victoriously alone, as she doubtless may, according to the experienced judgment of the senator from Missouri? Certainly, rather than submit to Mexican reconquest and Mexican chains; but certainly not, if she can avert both the carnage and the chains, with honor, by an arrangement with England or France, after making the first offer to us, and experiencing a humiliating refusal. In a single month, after such refusal or delay, it will be wise and natural for her to guard against new contingencies, though not to become an integral part of the British or French monarchies, and abandon her republican institutions and independence; but to receive the guaranty of one of them against Mexican oppression. Of course, it would be on such terms as are honorable and acceptable to both parties; and leave no motive for renewed negotiations with us on such terms as will secure life and property, restore peace to her industry and commerce, grow cotton for England independent of us—a most vital object to her—improve the finances of Texas, and fill up her rich domain, not by us and ours, and to our benefit and glory, but with millions from other quarters of the world, who

have so long been repulsed by her hitherto embarrassed and unsettled relations. If, then, a more intimate union is ever to take place with us, it is my solemn conviction that "now's the day and now's the hour."

These apprehensions are so far from being visionary, that numerous similar arrangements by more powerful States, with youthful and small republics, have occurred and continued for centuries.

How striking in the case of the Hanse Towns, and other free cities of Germany? How momentous, at times, in that of the Swiss cantons; in that of Geneva? Genoa? How desirable to us once, when the protection and assistance of France were obtained under certain mutual guaranties, but without our becoming a part of France, or a dependency, or ever feeling disposed, however much pressed, to renew our governmental relation with England, though attached to her by origin, education, and religion, almost as strongly as the people of Texas can be to us.

The correspondence before us, published as well as unpublished, proves that these gloomy apprehensions, if the *present golden moment* be not seized, are likely soon to be realized. Not so much, I admit, by rapacity, as by intrigue and interest elsewhere, (as evinced by Mr. Huskison in debate, as long ago as 1830,) and thus to place in the hands of another foreign and rival power—a possession more dangerous to all our western as well as southern interests and commerce than Cuba herself—Cuba, which, for twenty years have been publicly tabooed by our Presidents and secretaries from all foreign interference. If we postpone at all, then, let me ask to what time? to what 4th of July are we to wait for the occupation of this as of the northeastern territory since lost? Our people are as acquisitive in their propensities, and especially about lands, as most others. Hence, when peaceful restorations of what was once our own, and from its great value and importance should never have been parted with, are offered, they would hardly justify that procrastination which may again be the thief to rob them of the prize.

The instincts of a great people are also seldom wrong; and those of ours have long run in the channel of sympathy for the down-trodden—especially their own relatives and neighbors—attachment to those daring to be free, and knowing what confidence, courage, and strength, were inspired into our fathers in their struggle for independence by the kindness and approbation of others, they will always be true to those instincts, and as far as justice, honor, and right, may warrant; which they are believed to do here—immediate annexation, they will march fearlessly up to the line of duty.

If we look further, the dominion of the whole American continent will be seen to be at stake. Shall it rest in America, or in a small island on the coast of Europe? Shall it be in a republic, or a monarchy? In us and our posterity, or in our oppressor and rival?

The commerce of America—the great surplus commerce of both worlds,—on what does it chiefly depend? and where and whence shall it flow? Under whose guidance? Whose protection? Look into these matters as connected with this question, and decide whether we shall, in truth, be independent in substance, or only in form? Exhibiting self-confidence, liberty, and defiance, somewhere else than on

our lips; or stoop in action to temporize, vacillate, and delay, if not succumb to other powers?

#### APPENDIX.

A.

##### Message 1810:

"Taking into view the tenor of these several communications, the posture of things with which they are connected, the intimate relation of the country adjoining the United States, eastward of the river Perdido, to their security and tranquillity, and the peculiar interest they otherwise have in its destiny, I recommend to the consideration of Congress the reasonableness of a declaration that the United States could not see, without serious inquietude, any part of a neighboring territory, in which they have, in different respects, so deep and so just a concern, pass from the hands of Spain into those of any other foreign power.

"I recommend to their consideration, also, the expediency of authorizing the executive to take temporary possession of any part or parts of the said territory, in pursuance of arrangements which may be desired by the Spanish authorities; and for making provision for the government of the same, during such possession.

"The wisdom of Congress will, at the same time, determine how far it may be expedient to provide for the event of a subversion of the Spanish authorities within the territories in question, and an apprehended occupancy thereof by any foreign power."—(2 Secret Jour., 180 p., Madison's Message.)

B.

##### Resolution, January 8, 1811, House of Representatives in secret session:

"Taking into view the present state of the world, the peculiar situation of Spain and of her American provinces, and the intimate relations of the territory eastward of the river Perdido, adjoining the United States, to their security and tranquillity, therefore

"Resolved, &c., We cannot see with indifference any part of the Spanish provinces, adjoining the said States eastward of the river Perdido, pass from the hands of Spain into those of any foreign power."

C.

##### Declaration reported by a committee—in the Senate in 1811:

"The United States of America, in Congress assembled, having had their attention imperiously drawn to the present situation of the territory adjoining their southern border, not included in the purchase of Louisiana, and considering the influence which the destiny of that territory may have on their security, tranquillity, and commerce," (claims of indemnity on Spain erased,) "declare, that they could not see with indifference the said territory pass into the hands of any other foreign power, and that they feel themselves called upon, by the peculiar circumstances of the existing crisis, to provide, under certain contingencies, for the temporary occupation of the said territory. Whilst they thus yield to what is demanded of them by their own safety, they further declare that the said territory, in their hands, shall remain subject to future arrangement between them and Spain."

D.

##### Report of the committee in the Senate in 1811:

"Strike out all the words after the word 'the,' first mentioned in the first line of the resolution, to the end thereof, and in lieu thereof insert 'peculiar situation of Spain, and of her American provinces; and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce; therefore

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign power; and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, declare, that the said territory shall, in their hands, remain subject to future negotiation."





















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